[Mr. M. R. Madhava Variar.]

RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

***Throwing open of all roads to all classes.*—(*contd.*)**

PRESIDENT: We will now proceed with the non-official business of the Council. Mr. Kumaran has moved the following resolution:

"*That this Council recommends to the Government that the roads round the Vaikam temple and all other roads similarly situated in Travancore be thrown open to all classes of His Highness the Maha Raja's subjects without distinction of caste or creed.*"

Does anybody second that resolution?

THE REV. FR. KURIAKOSE VETTIKKAPALLI (*Todupuzha cum Kunnatnad*): Sir, I beg to second that resolution. I do not think that any elaborate argument or special pleading is necessary to support the resolution which only asks the Government to allow about half the population of the State to exercise their elementary right of citizenship to walk along the public roads of the State. As far as I know, almost the entire community of the State is in full sympathy with the resolution. All the civilised Governments in the world have had only one policy towards all kinds of iniquitous customs however age-long or time-honoured they might have been. They have fearlessly legislated against them and enforced the law with a firm hand. The suppression of *sati* and the abolition of slavery are two of the best instances in point. The admission of Pulayas and Parayas in the Government schools is an example nearer home. In Vaikam itself, Sir, there was a time, some 25 or 30 years ago, when even the Christians were not admitted into the Government Vernacular School owing to its proximity to the temple. But that objection has ceased long ago. As for the objection of the pollution of the temple, I have only one difficulty. The pollution distance does not seem to be the same on all the four sides of the temple. Further, it seems to diminish as years advance. When I was a boy, I know that the pollution distance on the western side was greater by about half a furlong than it is at present. Under these circumstances, I give my entire support to the resolution.

MR. M. R. MADHAVA VARIAR (*Chengannur cum Pattanamtitta*): Sir, I strongly support Mr. Kumaran's resolution. In my opinion, the roads round the Vaikam temple and those similarly situated ought to be thrown open to all classes of persons without distinction of caste or creed. The only objection now raised by the caste Hindus at Vaikam against the admission of Ezhavas, Pulayas, etc., into the disputed roads is that their approach will pollute the temple and the temple-going people. If there is any substratum of truth or force in the argument that approach of the prohibited communities will be conducive to the pollution of the temple, I can understand the logic of their position though I may not be able to agree with it. There is a hoary custom in the country that the approach of certain persons

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within a fixed distance of some caste Hindus will involve spiritual contamination. Old poets and law-makers seem to have made *slokas* to hand down to posterity the custom which they observed or originated. As far as I was able to understand, there is no scrap of *sloka* or authority in *Tantra Samuchayam*, *Sankara Smriti* or *Keralolpatti* or any other books for the position that pollution from outside the four walls of the temple will affect the deity inside. Temples are generally constructed in such a way that the four walls which surround the yard should be a barrier against all contamination and pollution. There are many temples in Travancore besides Vaikam, round which there are roads which are frequented by Ezhavas and other prohibited communities. In front of Chengannur, Tiruvalla, Koratti, Tirunakkara, Kaviyur and other temples, roads exist and all classes of people without distinction of caste or creed frequent these roads. The above-mentioned temples are very important from the standpoint of the devotees; and hitherto no complaint had been raised that certain communities should be excluded from these roads. Even from the standpoint of an orthodox Hindu, there is not sufficient reason to support the argument that certain classes of Her Highness the Maharani's subjects should have been denied the right of using roads maintained with public funds. Nobody would have seriously blamed Government if their support of the caste Hindu cause had an iota of reason behind it.

But though the approach of prohibited classes will not pollute the temple, it is argued that the use of Vaikam roads by Ezhavas and others is calculated to pollute the temple-going population. It can be conceded that high-caste Hindus will find it very difficult to escape pollution if the roads are used by all classes. The temple-going persons are not living close by the pagoda. They will have to go to the temple from a distance. Even if the prohibited roads are not opened to all classes of people, the prohibited classes can deliberately pollute the caste Hindus by standing without the polluted area. Whether the roads in question are open to all communities or not, pollution is inevitable. If the caste Hindus at Vaikam refuse to recognise the civic rights of the majority of Hindus who are stigmatised as *avarnas*, it is open to the latter to remove the prejudices of the former by the continuous and persistent acts of contamination or pollution based on constitutional means. The prohibition of the roads to the so-called depressed classes, whose consciousness is aroused and whose self-respect is affected, cannot secure to caste-Hindu obstructionists the much desired immunity from the ravages of non-caste pollution. So the prohibition is neither reasonable nor expedient. Then, why is it that caste Hindus at Vaikam take their cudgels against the social reform movement and invoke the aid of the Government to protect their supposed rights? To me the answer to the question is clear. The caste Hindus were from time immemorial treating the *avarnas* as slaves and servants. With the impact of western civilisation and with the change of time, the old order of things is yielding place to the new. The feudal overlordship and pontifical autocracy which the high-caste Hindus enjoyed crumble away under the melting rays of the spirit of the age. It will

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[Mr. M. R. Madhava Variar.]

be revolting to the mentality of the caste Hindus when they visualise the idea of the rise of suppressed classes to a position of equality or proximity with them. It is this jealousy, this selfishness, this injustice, this devouring self-aggrandisement that has led to the adherence to the long usage. This is their right upon which they base all their claims of protection from Government. I have asked caste Hindu *vaidiks* and learned men to quote any authority to support the proposition that the free use of the Vaikam roads by Ezhavas and others will pollute the temple or the idol inside. Not one of them has been able to satisfy me on that point. Their answer is that the attempt of *Satyagrahis* is against all *mamuls*. In answer to my interpellations, the Government have informed the House that Government have prohibited certain communities who were not accustomed to use these roads from entering them because of the long non-user. May I in all sincerity ask the Government whether Government are prepared to support *all mamuls* whether supported by reason or not? Was it the policy of the Government hitherto? Have not the Government already proclaimed in the past that all classes of people can use the public roads against the opinion of the caste-Hindus and against *mamuls*? Have not the Government admitted the so-called depressed classes to all schools in spite of the caste-Hindu opposition and resistance? Have not the Government opened the gates of a certain portion of the public service which were hitherto closed to certain classes of people? All these acts were done *in defiance of* the *mamul*. When the *mamul* was manifestly against natural justice and equity, Government used to oppose it. The Chakkala Nayars, who were prohibited by *mamul* from entering temples, were given temple entry. Neither the caste Hindu oppositionists nor the Government are in a position to follow all the *mamuls*. Government also assume a position of safeguarding the rights of minorities against the attacks of the majority. If the caste Hindu oppositionists had a right and just cause, if their interests are to be jeopardised, one can appreciate the conduct of the Government in supporting their cause against a majority. The only imaginable right of the caste Hindus is to retain their undue privileges and assumed superiority in social hierarchy against the interests of the majority of people who were hitherto toiling and moiling for their ungrateful masters. I respectfully submit that our Government based on eternal *Dharma* should as soon as possible keep away from such company and such principles. The forces of Government should not be used to uphold slavery, to perpetuate inequality and to support unreasonable dignity. In times past, this Government went to the length of prohibiting the use of jackets by South Travancore Christian converts as it was opposed to the old custom, but this Government was forced to withdraw that proclamation on the intervention of the British Government. The Government are now going back on their advocacy of *mamuls* when they uphold the unjust and the unreasonable claims of a minority of the Hindu population who despise their co-religionists and who disgrace the noble tenets of *Sanatana Dharma*. As a believer in *Sanatana Dharma* and as a Hindu,

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I am pained to see that a large portion of the Hindu population is humbled and down-trodden for the mere crime of their remaining in the Hindu fold. It is that aspect of the question, more than their attempt to assert their civic right, which has appealed to me. The roads in question, whether they are public or private, are used by Christians, Mahomedans and other religionists, while the major portion of the Hindu population is excluded therefrom. If an Ezhava or a Pulaya becomes a Christian or a Mahomedan, his pollution disappears and the Government will think twice before they attempt to eject him from the prohibited roads. This stigma cast upon the religion of the Hindus by a Government which profess to be the custodians of Hindu rights and privileges is unbearable and unthinkable. Hindu Devaswoms are under the control of the Government. Hindu customs are regulated by the State. If the Government were to use their might in favour of a small section of orthodox Hindus in violation of the right of the majority, Government are betraying their trust and digging the grave of Hindu religion in this country. The Travancore Government do not seem to have realised the consequences of their action at Vaikam.

I support Mr. Kumaran's motion not only with the desire that the roads in question should be opened to the prohibited communities but also with the desire that the slur cast upon the Hindu religion and society should be removed and the civic right of every community to use roads maintained with common funds should be immediately recognised.

I know that legal quibbles can be advanced against my contention and the resolution under discussion. It may be pointed out that the roads round the Vaikam temple are in the *Sanketam*. Whether they are in *Sanketam* or not, they were used as public roads by almost all communities who have no manner of right to enter temple *Sanketams*. They were for a long time maintained with public funds. Even now the roads are lighted by the Municipality with the money collected from all ratepayers without distinction of caste or creed. It may also be argued, according to certain decisions of the High Court, that the public roads are divided into *Rajapathas* and *Gramavithies* and that the latter cannot be used by those who have not hitherto used them. Though such arguments may very well be advanced in a court of law which interprets the existing law and custom, a Government which is supported with the tax of all communities and castes cannot reasonably entrench itself behind these legal quibbles and deprive a vast section of the people of the primordial right of using roads maintained out of public funds. In the name of the religion which I hold dear, in the name of the society in which I am born, in the name of the civilisation which guides our destinies, in the name of the culture which we have imbibed and inherited, in the name of the justice which all of us worship, in the name of the inalienable rights of the citizen which we guard zealously, I recommend this resolution to the earnest and anxious consideration of this House.

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[Mr. A. Govinda Menon.]

MR. A. GOVINDA MENON (*Alangad* cum *Parur*) : I accord my support to the resolution now before this Council. It is a resolution which should have been brought before the Government, perhaps two decades ago and given effect to at that time. The only plea on which the entry of all the other castes except the *avarnas* into roads round the Vaikam temple and roads similarly situated is allowed is based on custom. And the most orthodox of *Smriti* writers, Manu, whom at least most of the Hindus regard as the mouth-piece of God himself, begins his *Smriti* by saying that custom should be changed according to the conditions of the time. If that is the opinion of a writer like Manu, certain as anything, no man can plead that, because such has been the custom or such was the custom, that custom should be followed for all time. The effect of keeping away the so-called *avarnas* from the temple is to give a kind of very low status to the Hindu religion. The members of other religions, like Christians, Mahomedans, Jews and others, are freely allowed to go over places where the *avarnas* are now prohibited from entering. I can only quote an instance that came to my notice just a few months ago. In our place, there is a Government temple just by the side of which one day a Pulaya happened to pass. One of the Nayars, I am sorry to say that he belongs to my own community, caught him and belaboured him. He was a labourer of a Christian gentleman of good means. The Pulaya went and informed him about this occurrence. Next day, he took him to the Catholic church, just converted him and asked him to go about the temple. He said that, if even then he was belaboured, he would see as to what should be done. The Pulaya did accordingly and the man who beat him and all his associates were all satisfied to let him pass by! That is the state of affairs now. If that is the state of affairs, the Hindu religion is far worse than the Christian religion or the Mahomedan religion or any other religion in the world. If the members of one religion are not admitted where the members of other religions are admitted, certainly the only logical inference that can possibly be drawn is that our religion is far worse than any other religion in the world. I for one would not admit such a contention. Although I do not support all the unreasonable customary traditions of Hinduism and the *puranic* stories also to some extent, I can boldly say that I am as much a Hindu as any one else in this Hall. As to the real nature of this custom itself, I can point out two or three examples which will bear out that there is absolutely no custom really amongst us. Now, the Malayala Brahmins, most of them, and a few of the Nayars among whom too there are advanced radicals at present, are the only people who observe any kind of pollution. At present even among them, there are, as I said, people who have already discarded this kind of distance pollution or touch-me-not pollution. As regards the *Paradesi* Brahmins, they observed no pollution at all until they came here. Even after coming here, this is new to most of them unless they are acclimatised or have practically become Malayalis. They do not regard this pollution distance in any degree. They

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frequent markets, they trade, and without even bathing but just smearing a few particles of ash (*laughter*) on their forehead and cleansing their feet and hands, they enter the temple and sit with all the other Brahmins there. Nobody has objected to this. I cannot see the reason why such people, who have mixed freely with Pulayas, Parayas, Christians and Ezhavas and other people, are allowed to enter the temple and worship there and eat with the other Malayala Brahmins. At present I am only concerned with Ezhavas and the other classes. How can these people who are clean in their body and who follow our own customs be said to pollute and how can we prevent them from even entering the temple? I will even go so far as to say that there should be no distinction of caste or creed in worshipping a deity. In Northern India, there is absolutely no such thing as pollution.

MR. A. HOOGEWERF (*Nominated*): Is it the case in Benares?

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): Yes; I have myself gone there, and all sorts of people worship the deity.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I rise to a point of order. I wish to know whether any member is at liberty to say anything about Hindu temples and temple entry in this Council.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): I said that only to show how far I am prepared to go in that matter. I do not advocate temple entry at present and I do not use it as an argument. My only contention is that, in the present state of affairs, nobody observes any sort of pollution and that, even in private life, Nayars, Christians and Ezhavas freely mingle in their own houses without any distance pollution or touch-me-not pollution. That is known to every one of us here; and when a question like this comes to public prominence, I do not know why we fight shy of confessing our real opinion and doing away with this unreasonable custom.

There is also one other evil. I address my own community and am not speaking in disparagement of any other community. If you keep up this custom of distance pollution and touch-me-not pollution, certain as anything, it will be the one true cause of the many conversions to which lately there has been a stop but which will take place in the future, because no man who has got any self-respect in him should be told that he should not even approach a place where Christians and Mahomedans who violate every principle, especially one of the most sacred principles—it is cow-killing— are allowed to go. Those who eat cows, those who may not even have washed their hands or mouths after eating cows' flesh are allowed to go there, stand there and even to sit on the temple walls. But these people who never touch anything like cows' flesh, of course among the reformed people there may be some who have tasted it, but in the generality of cases, none of these people eat flesh—these people are never allowed to enter those places.

KHAN SAHIB M. K. KHADIR PILLAI (*Nominated*): Do Pulayas eat cows' flesh?

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[Mr. A. Govinda Menon.]

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): I think Pulayas eat. Why should they not? Provided they are neat in appearance, they should certainly be allowed entry at present at least into all places where other castes are allowed to enter. That is what I contend. I think that the late Swami Vivekananda had been here while touring round Malabar and he is said to have taken with him the impression that Malabar is a land of mad men. Of course what I said was that, though in practice this pollution is not observed, when it comes to a public question, these things are raised. That is the true state of affairs as is fully evidenced in the controversy now going on in regard to this pollution question.

THE REV. FR. KURIAKOSE VETTIKKAPALLI (*Todupuzha* cum *Kunnatnad*): May I know from Mr. Govinda Menon whether we are here to make such legislation as would prevent conversion?

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): I do not want to prevent conversion. You may convert any number you please. I addressed the Nayar community not to give room for other communities converting us.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to make one point clear and therefore I am raising another point of order. The question I want to put is whether this Council is concerned with the protection of particular communities or whether this matter has to be discussed as a matter of citizens' right. Otherwise, there will be difficulty. All of us will have to make our observations. Therefore, Sir, I am raising the point whether the protection of any community like the Hindu or the Christian community is the point that is to be discussed in this Council or whether it is to be limited to a consideration of the citizens' right of entering the road. That point has to be made clear.

PRESIDENT: I do not think any point of order arises at all. I think that any member can use any argument provided that argument does not contravene any of the specified rules of debate and the Legislative Council Rules. He can use any argument he likes to convince the House of what he says.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): One point has to be urged *viz*, how this distance pollution and touch-me-not pollution came into being here. So far as reasonable men can infer, it came at a time when Malabar was sparsely populated and it was not difficult to keep these so-called pollutions up in the every-day life of the people who were then resident in this country. That this custom has got exception we can well know. I can quote an instance. If we eat sugarcane and spit out, and if you touch the dried chaff with the feet, there is absolutely no pollution. If we observe pollution in every such instance, we will have to bathe about one hundred times in a day. (*Laughter.*) Again, if there is a pool of dirty water, and if you touch it with the feet there, is absolutely no pollution; but, if you touch it

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with the hand, you have to bathe. That shows the practical wisdom of our ancestors. I do not blame those who are in a way answerable for the propagation of this custom.

There is absolutely no reason in observing these customs in the twentieth century. I hope all my colleagues here will think twice before they vote against any proposition like the one now before the House.

MR. PAUL V. DANIEL (*Agastiswaram*): Sir, I heartily support the resolution. I am aware of the difficulty the Government have to face in this matter and also of the anxiety the Government have to arrive at some solution of this question. I feel sure that the Government are also anxious to welcome any suggestion for a satisfactory solution.

It may be said that both sides plead right and liberty and this makes the matter all the more difficult. But, Sir, a good Government must be prepared to help the unprivileged classes in their attempt to enjoy the rights which, after all, Sir, in the case in question, are but the most elementary rights of citizenship.

It is said that the prohibited portion of the road at Vaikam has now been made shorter—an indication perhaps that, in course of time, the entire road may be thrown open. But, experience has proved beyond doubt that agitation in some form or other is absolutely necessary even in cases where one desires but to get something to which one is rightly entitled.

"The rights and duties of the man in one set of conditions differ from those of him in another set; no one custom is useful for always and for all."

So says one of our great sages and teachers, Vyasa. Customs which fail to secure right, justice and equity, must necessarily lose their claim to obedience. Such customs should not be permitted to exist; otherwise, there will be justifiable cause for this contention and agitation and struggle and fight.

When it is found that a custom does not secure right, justice and equity, naturally the classes who groan under it would awake and assert their rights to get their grievances redressed. Looking back upon the history of our own land, it is encouraging to find that there have been several instances when such agitations were made and the Government kindly interfered and issued the necessary notifications and proclamations for abolishing unwholesome customs. For instance, formerly the right of wearing gold and silver ornaments was denied to all but the higher castes. Pulayas could only wear ornaments of brass, and Vedars, Kuravas &c., only a large number of strings of beads. But, after some agitation, a proclamation was promulgated on the 19th Medam 993/May 1818 permitting Sudras, Ezhavas, Nadars &c., to wear gold and silver jewels. This had to be republished in 1040/1864 by Sir T. Madhava Rao. Another instance is where certain caste people alone were permitted to live in tiled houses and it was after some agitation that the Proclamation of the 8th Makaram 992 was passed permitting all classes of inhabitants to have their houses tiled. The

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[Mr. Paul V. Daniel.]

agitation for the free use of palanquins was started about the year 1870. A Nadar was fined for using the palanquin but the fine was remitted by the Dewan. The oil-mongers in Trivandrum began to use it in 1874. On the complaint of certain high castes, the Magistrate fined them but the fine was cancelled by the High Court. When the oil-mongers at Kottar imitated their kith and kin in Trivandrum, they were complained against by another high caste community and fined by the Magistrate. And, though confirmed by the Peishkar, the decision was reversed by the High Court. The desired Proclamation allowing the free use of the palanquin was obtained only in 1051. It was only after much agitation and fight that several circulars and notifications were obtained from the Government securing free access to roads, markets, courts and cutcherries and other public places and Government offices. It was after about 50 years' continuous struggle and fight and even bloodshed that the liberty to women of unprivileged classes for wearing upper cloth was obtained. There have been, Sir, several other instances of this nature, but time would not permit me to refer to them.

The question at issue in Vaikam cannot be one of religious sentiment, in view of the fact that Mahomedans and Christians are allowed the free use of the roads around the Vaikam temple. It is only prohibited to people who belong to classes treated as the untouchables. The question then resolves itself into one of untouchability. Even if the question is discussed on this line, I do not think the 'prohibition' is justifiable. Untouchability, which is a mere social convention, is not confined only to the so-called untouchables. In common with every other convention connected with the caste system, it is also established in fine gradations corresponding with the multitude of communities into which society is divided. To a Brahmin, people of all other castes were untouchables. A Nayar could approach him but not touch him. Such castes as fishermen, Nulayans, Tandans, Tiyas should keep about 30 feet off a Brahmin. A Valan (boatman) was obliged to stand 50 or 60 paces off. A Cheramar had to remain at a distance of about 90 paces. There were times when these rules were strictly kept and the lowest classes could only disobey them on pain of being put to death by the higher castes. So far as I am able to ascertain, the maximum distance of pollution, at present, is even in the case of a Chandala only 64 cubits or 96 feet. But these restrictions have, of late, been to a very large extent, relaxed in practice because of sustained agitation, pressure and change of circumstances. I may quote here the authoritative words of Babu Govinda Das, Member of the Court, Council and Senate of the Benares Hindu University. In his book on Hinduism, he describes untouchability as—

> "the horrible system of social gradations of Tamil and especially Nayar and Namburi India, where such castes as the Chandala must not come within 64 cubits of the high caste men on pain of being done to death."

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Since the question at issue at Vaikam is only one of untouchability and since the maximum distance of pollution is only 64 cubits or 96 feet, it does not stand to reason to prohibit any person to any distance greater than 96 feet or a little more from the sacred image. Allowing all people to approach up to 96 or 100 feet from the sacred image is quite consonant with even the extremest ideas of untouchability. Since the road in question is at a greater distance from the sacred image, it may be unreservedly thrown open alike to all subjects of Her Highness the Maha Rani Regent. I believe this will be acceptable to our conservative Hindu brethren. Even if there is some dispute as to the maximum distance of pollution, a solution of the difficulty is possible. If atoms of untouchability or pollution which are said to emanate from certain classes of people could travel only to a certain specified distance, the distance may be enhanced by raising the walls round this or any other temple to the height required to keep off the atoms of untouchability. Suitable ladders may be constructed to help the devotees to get to the temples. Proper Teppakulams may also be constructed and maintained to help the devotees to wash off pollution, if there be any, before they proceed to worship the sacred deity.

There have been instances when, under exceptional circumstances, the rules of untouchability have even been wholly suspended. Barbarosa wrote:

"During the time the Nayars are at war, they may touch any peasant, and eat and drink with them in their houses, without any penalty."

It is quite reasonable to think that the time has come when the idea of untouchability should be finally forgotten. The altered conditions of modern times demand it. Let us take a lesson and follow Japan whose subjects cheerfully abolished all legal and social differences and disabilities and gave full civic status to their "untouchables" known as "Hini."

Sir, we experience similar difficulties as the one in question at Myladi, Peruvila, Suchindrum and other places; and, as matters stand at present, the prohibition is traceable not to religious sentiments but to sentiments grounded upon false ideas of dignity. On one side of a street in Myladi in the Agastisvaram taluk, some Nadars have their houses and on the other side of the street some Vellalas have their houses; and the houses on both the rows face each other. The street is in the common occupation and enjoyment of both the Nadars and the Vellalas. Both classes of people walk along the street, they both drive their carts through it and use it for various other purposes and yet the Vellalas would not permit the Nadars to go in procession in the usual manner through this street. Judges are of opinion that Government alone can interfere in matters of this kind and do the needful. Are we then, Sir, wrong in approaching the Government to get our grievances redressed?

I know, Sir, that every good Government should maintain religious neutrality. It is equally true, Sir, that the subjects of every good Government should maintain religious neutrality as well. What should a

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[Mr. V. Subba Aiyar.]

good Government do when a certain class of its subjects—a comparatively small number of super-sensitive Hindus—are not prepared to follow this ideal, but hope (in vain, as I believe it to be) that the Government would help them on the basis of long-established customs.

Sir, when the unprivileged classes who form the backbone of the State have rightly begun to resent the maltreatment they receive at the hands of the advanced communities, when they are also aware of the several methods that have been adopted in similar cases here and elsewhere and when the advanced communities are not inclined to compromise the 'situation,' is the prayer embodied in the resolution in any way unreasonable and untimely?

Sir, the ancient Hindu books do not seem to support untouchability. Babu Govinda Das says:—

"As for the untouchables or Panchama caste, there is no mention of it in our sacred literature, there is scarcely any trace of the idea of impurity communicated by the touch of an inferior caste. Manu also does not know of it."

Sir, our beloved country has adopted for its motto the best of mottoes available:—"Charity our Household Divinity". Of all the virtues, the greatest is Charity. May Charity which is our household Divinity keep us, guide us, and control us in considering this important question! Let Sincerity be one's own Divinity and the Divinity of each one of us here.

Sir, in the case of this resolution, the Government should at least remain neutral and allow the official members freedom of conscience to vote for or against it; and if this is not found advisable, the resolution should be left to be voted for or against by the non-official members alone. And now, Sir, with my heart and soul, and with all the sincerity I am able to command, I request most earnestly all the honourable members of this House—Hindus, Christians and Mahomedans—in the names of our Lords Prophets, Sages and Saints, who have been on this earth with the message of peace and goodwill and who worked to establish the brotherhood of mankind and to set aside all barriers that stood in the way of liberty and fraternity, and who, with all the physical, mental and spiritual power they had at their command, endeavoured to live or lived the life that you and I should live so as to be united with the Almighty,—to vote in favour of this resolution which enshrines within itself an ideal that should be adopted by every good subject and which, if adopted, would work towards the accomplishment of the brotherhood of mankind for which the Christian, the Mahomedan and the Hindu now appeal to the masses on the same platform. (*Hear, hear.*)

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): We wish to hear what the official side has to say.

MR. V. SUBBA AIYAR (*Additional Head Sikar Vakil*): Sir, I have heard the arguments of Mr. Kumaran and those who supported him. I very much regret that I have to oppose the resolution. I can

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positively say, and I can assure Mr. Kumaran and those whom he represents, that the object of Government has always been and *is* to ameliorate the condition of the non-caste Hindus. Mr. Kumaran has been good enough to say that this has been done in the past. He has been telling us, and I believe the House *does* know as a matter of fact, that all public offices are open to them, that all public highways are open to them, that all colleges and schools have been opened to them, that they have also been allowed admission into Government service, except perhaps the Devaswom Department, and that they have been allowed seats in the Municipal Councils, in the Popular Assembly and, I may say, in this House also. If further proof of the good intentions of Government is necessary, I have only to draw the attention of the House to an event that took place recently, namely, the Installation Darbar, at which all classes of His Highness' subjects, irrespective of caste or creed, were allowed equal privileges and were accorded equal treatment. Therefore, so far as Government are concerned, it cannot in the least be said that they are against the social amelioration of the non-caste Hindus. If Government have all along been doing such things in the past, it may be asked, what is the cause of this agitation? The cause of this agitation does not lie in the words of the resolution which has now been placed before the House, but somewhere else. I may draw the attention of the House to what happened in 1920 when Mr. T. K. Madhavan at the 16th session of the Assembly wanted to bring to the notice of Government the desirability of allowing the right of temple entry and the right of worship in all Hindu temples, maintained by the State. After that, in 1921, again, this agitation was started, but the discussion was disallowed according to the rules laid down for the conduct of the Assembly. In 1922, there was a meeting, over which Mr. Aiyappan, the Editor of *Sahodaran*, presided; it was resolved in that meeting that there should be forcible entry into the temples generally and within the *sanketham* limits of the Vaikam temple in particular.

MR. N. KUMARAN (*Nominated*): May I know from Mr. Subba Aiyar where that meeting was held?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It was held at Vadayar on 4th May 1922. The agitation as regards temple entry grew in volume and intensity and some of the agitators enlisted themselves in the ranks of the Congress party and the Congress Untouchability Committee directed their attention to Vaikam. Even the Congress people were not in a position to start temple entry here, because they could not enlist public sympathy, and they left off temple entry *'for the present'* saying that the country was not yet ripe for the same. Hence, they took into consideration the question of untouchability and a committee was formed for that purpose. A public meeting was held at Vaikam on the 29th February 1924, in which it was resolved that the prohibited classes should encroach upon the roads round the Vaikam temple and walk along them the very next day. It was subsequently put off till the 30th March when the present Satyagraha movement was

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[Mr. T. K. Velu Pillai.]

started. So then, this House can easily see that the real object was to enforce temple entry, although, with a view to enlist the sympathy of outsiders, the question of roads has been taken up as the first step. With that object in view, it was resolved to confine, for the present, their attention to the road in question. It did not stop there. In April 1924, even after the Satyagraha movement was started, Mr. T. K. Madhavan stated—

"Every Hindu had a right to enter into a Hindu temple and worship therein. The Congress did not take up the temple entry question yet, as they thought that people at large had yet to be sufficiently educated on that wide question. They had now taken up only the question of securing the right of way to the Thiyas and other Theendal castes along roads hitherto forbidden to these castes."

Therefore, it is clear that that was the real object and this only the first attempt or the first step. Mr. Kumaran, while moving the resolution, did not make a secret about it; because, we find, at page 321 of the Proceedings, he says:—

"Government not heeding these representations, the Ezhava community claimed, as Hindus, right of entry and worship in all Sirkar temples. Mr. T. K. Madhavan moved that subject for the first time in the 15th Session of the Assembly. From that day forward the question of admitting all classes of Hindus into Sirkar temples without distinction of caste was placed year after year before Government for their consideration. Government did not deem it necessary to give even a satisfactory reply, much less to do anything to remove these complaints. They even went to the extent of prohibiting the very representation of the subject of temple entry in the Assembly. It is one thing for Government and their officers to say that they would take their own time to come to a decision. But it is quite another matter to those who are reminded every moment of their life that they are only fit to be underdogs and that they are not to have even some of the elementary rights of man which, under the law of God and of man, are absolutely inalienable and indefeasible."

MR. A. HOOGEWERF (*Nominated*): May I ask Mr. Subba Aiyar whether the Hindu temples are to be bolted against the non-caste Hindus for ever?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is a hypothetical question. I may assure my friend, so far as that is concerned, that they will be used by people for whom they are intended.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Suppose the Ezhava brethren had asked for two things, to one of which they are entitled and the other they are not, are the Government prepared to give them the one which they are entitled to?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I know, as my friend knows, that if any person asks for a major relief while he is entitled to a minor relief only, he can be given the minor relief to which he is entitled. I was just pointing out to the House the real object at the back of this question of throwing the roads open.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know from Mr. Subba Aiyar if he has read or listened to the following passage in Mr. Kumaran's speech at page 327 of the Legislative Council Proceedings?

"On what ground can you say that some roads may be used by all untouchable classes and some others by a few of them only? There must be a method even in madness. On the other hand, the question of entry into Sirkar temples is entirely different.

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There, the custom is invariable and knows no exception. In respect of roads, the cry is not to prohibit any and in the case of temples the demand is to admit all Hindus into them.

Does not Mr. Kumaran say that temple entry is a different question?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): My point is, not whether it is a different question from entry into roads or not, but that he said that he wants it. I am only trying to place before the House what he has at the back of the whole question, and how the latter is connected with the former. That is the point that I am placing before the House.

Therefore it is clear that temple entry is the real object in view.

Then, coming to the resolution before us, so far as the wording of it goes, it says that all public roads should be thrown open to all classes of the subjects of the State irrespective of caste or creed, without any distinction whatsoever. The resolution, in my humble opinion, suggests the existence of an impression in the mind of Mr. Kumaran that all public roads are also public highways. Mr. Madhava Variar, in his speech, said, 'I know that there may be some legal quibble'. I can assure him that it is no question of legal quibble but an established legal principle which we have to consider. It is a principle of law set forth in an authoritative decision of the highest judicial tribunal of the State.

MR. M. R. MADHAVA VARIAR (*Chengannur cum Pattanamtitta*): May I know whether it cannot be over-ridden by Government and whether the Government cannot declare the road to be a public road?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, to my mind, it cannot be. I know my friend is referring to V. T. L. R which I will come to presently.

MR. A. HOOGEWERF (*Nominated*): Will the Law Member kindly give us the correct definition of a 'public road'?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, I will give the correct definition. The principle on which the question is to be decided is whether the road in question is a public *highway* or not. As to the question whether the road in question is a public *road* or a public highway, I will come to that very soon.

So, there has been a recognition of the distinction between public road and public highway in Travancore. So far as British Indian precedents are concerned, I do not think they will be of any use. Because, even so early as was referred to by Mr. Kumaran, all the roads in British India were declared as public highways and thrown open to all classes. But in Travancore there has been a difference. I know, as a matter of fact, that Mr. Kumaran has referred to the various notifications. In these notifications it is stated that all public highways should be thrown open to all classes irrespective of caste or creed. But the difficulty is, what are the roads that could be declared to be public highways? Therein lies the difficulty. What a public highway is has been determined, decided and established by judicial decisions of the

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courts. That being the case, we have to respect these rulings. We have to be guided by these rulings. Of course, none of the speakers referred to them, although incidentally Mr. Madhava Variar referred to what he called, legal quibbles. I may refer you, Sir, to the ruling in V T. L. R. 93, and I know that all the lawyer members of this House would have read it. I do not know whether the other members have read it—I would only refer to a few passages in the judgment. That case relates to the right of the Christians to walk along in procession in a Jewish street.

MR. N. KUMARAN (*Nominated*): May I draw the attention of Mr. Subba Aiyar to the fact that it is only with respect to the rights of Christians to take a religious procession along the street and not to mere *walking*?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am coming to that. Will the member wait? I am not going to say that it is a judgment *in rem*, as Mr. Kumaran would have it, or that the judgment operates as *res judicata*. I only submit that the judgment recognises and establishes well-known principles of law.

So that then, that was the right in dispute and the Magistrate prohibited the Christians from exercising it. The matter was taken before a civil court. The District Judge said that there was no such custom and prohibited the Christians. The matter went up to the High Court, and at first a Division Bench sat in judgment upon it. In the end, it was taken up to a Full Bench consisting of all the five judges, Brahmins, Nayars and also a European Judge. All these judges agreed on the principle that the distinction existed between a public highway and what is ordinarily called a public road. Therefore that distinction must be kept up and maintained.

MR. A. HOOGEWERF (*Nominated*): Did not Mr. Narayana Pillai, Judge of the High Court, say that, when the time comes, roads that were not considered public highways would be considered public highways as education and civilisation advanced?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Let me finish; and then my friend will find my explanation. Mr. Madhava Variar also put the very same question. In the first judgment, Mr. Kunhiraman Nayar, Judge, observes (Page 95 of the report):

> "In a case of this kind, we must have recourse to the discretion, which is in fact customary reason, and decide according to our knowledge of the customs of the country of what is religious and what is expedient and what is sanctioned by experience and public policy."

Later on, when it went before the Full Bench, Mr. Justice Sitarama Aiyar says:

> "The distinction between what is called 'King's highway or public highway and common thoroughfare is more marked and clearly understood in this State than in any other country. It is not of yesterday's date, but one almost coeval with the foundation of this kingdom. It had its origin in the traditional history of the country and has been so religiously maintained and observed throughout that, only so recently as 1046, the action of Government was required to notify to the people that certain roads

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intended to be public highways were common to all the King's subjects and were open to all classes of people without distinction of caste or creed and that interference with the exercise of that right would be severely noticed."

Later on, as to what could be regarded as King's highways he says:

"As a matter of fact I know that in British Malabar the high streets of the 18 *agraharams* of Palghat are not open to all classes of people for all purposes, nay, to lower orders for any purpose, even for the purpose of passing and repassing through them."

Then, later he says:

"This will be a thorough innovation which the country is not prepared to accept. The rule of *nil innovatur*, strongly urged by Sir Thomas Munro as the best rule for India in these matters, should guide us in the disposal of disputes relating to the use of highways and common ways by the public or by any section thereof."

Later on, Mr. Krishnaswami Rao, Chief Justice, says:

"What is and what is not a public way is a question of fact. In the absence of evidence of repute as to the nature of the street or road, or of user by all classes or of any special Government notification declaring that the particular road or street is a public way, the courts may, in my opinion, presume to be public the ways directly leading to markets, public offices or hospitals, and ways leading from one part of the country to another."

MR. A. HOOGEWERF (*Nominated*): Does not the road in question lead to a market?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I say, no.

Then again, Mr. Narayana Pillai, Judge, says:

"There are streets surrounding Hindu temples and village roads running through places exclusively occupied by particular sections of the community, chiefly caste-Hindus."

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know the year in which this decision was passed?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): More than thirty years ago; in the year 1063. This is a matter affecting one's religious belief and therefore, as Mr. Nidiry knows, one which we are in the habit of respecting, especially when it is old. It is entitled to very great respect, especially when we take note of the fact that it has been followed in numerous other cases which I will refer to presently.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Is it not usual with the lawyers to refer to later decisions?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If my friend would draw my attention to any later decision differing from this or over-ruling it, I am prepared to accept it.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): Were not the Judges referring to the customs then prevailing?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

MR. A. HOOGEWERF (*Nominated*): About 33 years ago, had any Ezhava gentleman a seat in this Council?

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MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is why I premised by saying that Government have done and are prepared to do all that is possible for the amelioration of the depressed classes.

MR. A. HOOGEWERF (*Nominated*): What about the observations of Mr. Justice Narayana Pillai?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I will come to them; if only Mr. Hoogewerf would not interrupt me, I would answer the various arguments by the several gentlemen who have supported the resolution.

MR. A. HOOGEWERF (*Nominated*): I have to understand both sides of the question and form a judgment before I can vote.

PRESIDENT: It is an important matter. You must allow him to proceed with his arguments and ask questions only after he has finished.

MR. A. HOOGEWERF (*Nominated*): Yes, Sir, it is a very important matter; that is why I am so very anxious to get all the available information.

PRESIDENT: In the interests of all, I think it would be better if you allow him to go on till he finishes his speech and interrogate him in the end.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I may also draw the attention of the House to the remarks of Justice Ormsby. He says,

"The question is, as has been said, a difficult one. Having considered it, I think that the distinction *does* exist, and that this being so, (we are bound to interpret the law and not to make it) must recognise this distinction."

Then Mr. Kunhiraman Nayar, J., who wrote the leading judgment after it was referred to the Full Bench, says:—

"The Sirkar here maintain and keep every highway, whether it be of the description called *rajapatha* or King's highway, or of the description called *gramaveethi* or village thoroughfare, and every such highway is, in common parlance, called public road, but every such road, maintained or repaired at the expense of the State, has not hitherto been treated as a King's highway, the latter term being applied only to such of the public roads as are, consistently with the maintenance of the social and religious customs of the bulk of the natives of the country, accessible to the public generally for all lawful purposes; and, in the absence of clear expressions to the contrary, it must be assumed that the authorities had the King's highway in mind when framing these notifications."

Later on, he said:

"It is conceded on all hands that there are several public roads closed to certain classes of the public and this apparently on the ground that these roads have from time immemorial been dedicated to other sections of the public or for purposes not distasteful to the religious feelings of those who occupy houses on both sides of those roads."

I may also draw the attention of the House to one more paragraph:

"The Hindu Law enjoins the king (as whose representatives in judicial matters the Courts of Justice act) to respect the feelings of the *mahajana* or people of a town

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or village, and the preamble to the Mitakshara, descriptive of cases not to be entertained by a king, contains this passage, *viz.*, "all cases prejudicial to the feelings of the *mahajana* shall not be received."

And then later on, he says:

"Acting on this view, I think that no innovation prejudicial to the feelings of the local public should be allowed at least as regards the use of public roads not falling under the category of King's highways. It cannot fairly be urged, with due regard to the social customs of the country that the right to carry a procession along a road, other than a King's highway, is a natural right inherent in every subject of the State. Such right is limited to roads recognised as King's highways, the user by the public of other kinds of public roads being restricted by the general customs of the country."

And then, lastly, the Division Bench of the High Court, in giving effect to the Full Bench decision, laid down certain tests to be followed in determining whether a particular road is to be treated as a public highway or not. They are: (1) the road must belong to the Sirkar; (2) the road should be maintained by the Sirkar; (3) in the absence of a notification to the contrary, it must lead to a public market or a hospital or to go from one town to another; (4) it should have been thrown open to all classes of subjects for all manner of lawful user by express notification or by custom; (5) it should not have been dedicated or granted to a section of the public. These, in the main, are the principles laid down there to be followed by the Courts in deciding whether a particular way is a King's highway or not.

MR. A. HOOGEWERF (*Nominated*): Can the public be divided into sections?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

MR. A. HOOGEWERF (*Nominated*): Can the whole section of the public be cut up into sections?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The word public itself may be cut into two syllables (*Laughter*). The tests are laid down at page 110 of the Report itself. Now, coming to the question of Mr. Hoogewerf, what Narayana Pillai, J., said is that it is open to Government to say whether a road is a public highway or not. It must be understood subject to the reservation pointed out by the Division Bench. Mr. Justice Kunhiraman Nair and Mr. A. Sitarama Aiyar observed that no innovation of the past custom should be allowed especially—

"where such innovations are hurtful to the religious feelings or tend to irritate or annoy those who occupy houses on both sides of the thoroughfares or common ways."

So then, if an innovation is to be attempted, it could be attempted only if it is not hurtful to the religious feelings of others or tend to irritate or annoy them.

Now, there is another case reported in X. T. L. R. appendix 31. It is a case where a Salvation Army member and his followers (Pariah converts) passed along a street which was wholly inhabited by Vellalas; it was not a Brahmin street. They were assaulted and the assailants were convicted. Ultimately the matter came up before the High Court and they laid down the principle there also. They say:

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"From the plan now submitted, it is clear that the path through which the complainant and his party proceeded lies (complainant admits in his evidence) between two Kshetrams (Pagodas) and through a street inhabited exclusively by Vellalas. The complainant was decidedly wrong in having persisted in proceeding through the street without heeding the mild objection at first raised. He was more than once told not to go that way, but he insisted upon doing so. It is well-known that Vellalas would not allow Pariahs to pass by their Pagodas and through their streets. Under such circumstances, it can hardly be held that the Vellalas' protest was unjustifiable. The complainant's party were the aggressors in the assault."

Mr. Govinda Menon said that the moment that a Pulaya becomes a convert he is privileged to use the road. The High Court do not say so. They say that the complainant's party were the aggressors. Their Honors say again:

"It may here be observed that the distinction between a public path opened to all classes of people for all lawful purposes and a public path open only to a particular class for all or for particular purposes, has not been sufficiently borne in mind in saying that the complainant had a right to go through the street in question with a Pariah following. The decision reported at V., T. L. R., 93 clearly lays down the distinction between the two classes of public path. A finding on this question was necessary before convicting the prisoners of wrongful restraint. We are not at all satisfied upon the record that the path in question was open to all classes of people without any distinction of caste or creed and for all purposes. A path may be a public path and yet may not be open to all classes of people to pass through."

So that, in X T. L. R, the ruling in V., T. L. R. was followed. The path may be a public path and yet it may not be open to all classes of people to pass through. That is a reiteration of the dictum already laid down.

MR. A. HOOGEWERF (*Nominated*): My question has not been answered by the Law Member. My question was whether Justice Narayana Pillai or Justice Sitarama Aiyar had not laid down that as education and civilisation increased, conditions would be changed and that all those customs observed then would be a thing of the past.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am sorry that for want of time I was not able to elaborate the whole question. It was open to the Government to change the notification. But that is subject to the restriction that the innovation does not irritate or wound the feelings of other communities. I repeat this. It is only then that an innovation can be made.

MR. A. HOOGEWERF (*Nominated*): I have another question to ask. I beg to know whether a Pulaya converted to Christianity or Mahomedanism yesterday, may pass through the road to-day.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have already answered that. It is a hypothetical question. If I were a Judge, I will say he is not entitled to. I would now draw the attention of the House to XIX T. L. R. 19:—

"We regret to find that the District Magistrate has performed his duty unsatisfactorily. He has overlooked the fact that there is some evidence in the case as to the way in question being a public or Kings' highway and not a mere common way or gramaveethi as defined and distinguished in V., T. L. R. The subordinate Magistrate after local inspection finds the way to be a public highway. The District Magistrate, if he

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thought further evidence necessary on the question, could easily have called for the same. If he thought that an express declaration by the Government of the dedication to the public is necessary to make a way public in all cases "that view is not supported by V., T. L. R. 93. The point may be proved by local usage."

MR. A. HOOGEWERF (*Nominated*): May I ask Mr. Subba Aiyar whether that was not an *obiter dictum*.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No it was not. When a full Bench of the High Court passed a ruling, it was not dissented from in any other case. I challenged Mr. Nidiry to say whether there was any ruling which was contrary to this.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): By way of personal explanation, I may say that we, the members of the Legislative Council, are not concerned with High Court rulings. We want to know whether the road in question is a public highway or not.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am coming to that. There is another case reported in XIX T. L. R. 115, in which we find the following observations:—

"In this State there is a recognised distinction between such public highways and Village pathways as was pointed out in the F. B. ruling in V., T. L. R. 93".

I may also refer to another ruling in S. A. 66 of 1096. From 1063, the current of decisions therefore has been that there are two classes of ways—public highways as they are commonly called and a common way or gramaveethi. This distinction has been maintained and kept up in the ruling passed in 1098. This distinction did not spring up now, but has been in existence for a long time.

The next question is whether the roads in question will come under the class of public highways as defined in the V., T. L. R. ruling. I dare say everybody knows that the roads are on the four sides of the temple.

MR. N. RAMAKRISHNA PILLAI (*Vaikam* cum *Ettumanur*): May I point out that the Full Bench ruling in V., T. L. R. also says:—

"Of course the Government, at all times, is competent to declare, with due regard to the convenience of the public or any section thereof and on proper consideration of the feelings of the people, that a way which has not been a public highway, is a public way common to all classes of people for all uses"?

So then Government are in a position to declare it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Mr. Hoogewerf raised the same question and it has been answered.

MR. N. RAMAKRISHNA PILLAI (*Vaikom* cum *Ettumanur*): My question is whether Government are not entitled, in spite of the rulings of the High Court, to declare and treat a certain way as a public highway.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I may, if Mr. Ramakrishna Pillai will allow me to express my own opinion on the point, say that I think that it is the opinion of one of the Judges that where a vested right has been established, it will not be open to the Government to modify it.

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[Mr. V. Subba Aiyar.]

MR. N. RAMAKRISHNA PILLAI (*Vaikam* cum *Ettumanur*): Does not the ruling in V., T. L. R. turn upon the Government notification?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Government notification said, if they are public highways, then they may be thrown open to all classes of people. The question before the High Court was what was a public highway and they interpreted it. I mention this because I understand that the whole misconception is due to the fact, and some are under the impression, that because a road is maintained by public funds it becomes a public highway and all classes of people are allowed the use of it.

MR. A. HOOGEWERF (*Nominated*): Did the Government consult the High Court before throwing open those roads?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think it is the practice of the High Court to give legal advice to Government. If they do so, they will cease to function as a High Court.

To pass on, I said that the roads round the Vaikam temple—

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether the proclamation separating the Devaswom from the Land Revenue Department is silent on the point?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to that, Mr. Narayana Pillai is evidently under a misconception. What the Devaswom Proclamation says is that what was regarded as *Devaswomvaga* will be treated as *Pandaravaga*.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): About the registers?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. That is to say, if a tentant is holding Devaswom land and that is entered in the registers as *Devaswomvaga*, that land will be treated as *Pandaravaga* land for all practical purposes. That does not mean that the site on which the temple stands, the tank of the temple or the *Nandavanom* will thereafter become the property of the Government. That is not the meaning of the Proclamation. If you look at the Preamble, you will see that Government wanted to remove the existing insecure tenure and give these lands a better and safer tenure. Therefore the Proclamation wanted to recognise that those lands may be regarded as *Pandaravaga* property.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is it not a change affecting the tenants of *Devaswomvaga* properties or is there only a change in the registers?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, for the temple itself does not vest in the Government.

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MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnatur*) : May I ask whether the roads round the Vaikam temple have the same survey number as the temple compound ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Yes, that is my information.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnatur*) : Is Mr. Subba Iyer aware of the fact that there are survey stones on both sides of the roads which show that the roads were separately surveyed and marked ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : As far as I understand, it is a single survey number of 11 and odd acres including these roads.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*) : Without any sub-division ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I believe without any sub-division.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnatur*) : I saw certain stones on both sides of the temple and there are survey stones which do not show that the roads were surveyed at the same time. So I ask him whether the roads were separately surveyed or surveyed after the question came up.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Unless we know what particular stones Mr. Kochukunju Pillai refers to, it is not possible to answer. The question was ascertained and it was found that it is a single survey number of 11 and odd acres which was Devaswom property.

MR. A. HOOGEWERF (*Nominated*) : May I ask the Law Member whether the Ezhava temple which is close to this temple is also Devaswom property ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : That temple is outside the limit of pollution, not within the limit.

MR. A. HOOGEWERF (*Nominated*) : Is it farther away from the eastern road ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I do not know the exact distance for I have not myself measured it. But I know as a matter of fact that it is farther than the distance of pollution.

MR. A. HOOGEWERF (*Nominated*) : Is it a fact that there is a lane going to the Ezhava temple and the so-called untouchables and unapproachables may walk right to the end of that lane quite close to the temple ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : So far as I have seen, the lane does not come to any of these roads.

MR. A. HOOGEWERF (*Nominated*) : May I ask whether the Law Member knows that the Ezhava may go through this lane to the limit of the road round the Vaikam temple?

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[Mr. V. Subba Aiyar.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I know there is a temple there which is farther from the limit of pollution. That is all I am in a position to say. I have not measured the distance.

So far as we are concerned then, it is not Sirkar property. The next question is whether it is maintained by the Sirkar. It is common knowledge that all public highways are maintained by the Public Works Department. These roads, before the separation of the Devaswoms, were under the control of the Land Revenue Department; and after the organisation of the Devaswom Department, they are under the control of the Maramat Department which looks after temples and palaces. That is so far as that question is concerned.

The next point is whether these roads lead to a public market or a hospital. I say they do not.

MR. A. HOOGEWERF (*Nominated*): Are there not shops?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): A shop is not a market. A collection of four or five shops does not mean that it is a market. A market should be formed under the Municipal Regulation. If it is not governed by that Regulation, it is not a market.

MR. A. HOOGEWERF (*Nominated*): Was there a Municipal Regulation at the time of this judgment?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No Municipal Regulation at all. It is not necessary. We know the ordinary meaning of a market.

MR. N. KUMARAN (*Nominated*): Does Mr. Subba Aiyar mean to say that, before the Markets Regulation came into force, there were no markets?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not say that. Mr. Hoogewerf was saying that shops mean markets. I say shops do not mean markets.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Do not the roads lead to the Vaikam Hospital also?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The hospital is outside the limits of the roads that we are considering.

MR. A. HOOGEWERF (*Nominated*): Is this not a short-cut? Has not the untouchable now to go round the Cape of Good Hope as it were? (*Laughter*).

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): There are ever so many short-cuts on others' compounds. It does not mean that, if they use those compounds, a right of way is conferred upon them.

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So that then, the roads have not been thrown open to all classes. The 'tindal' classes have no access to them. Excuse me for the use of that word. I am using the word 'tindal' because it was used by Mr. Kumaran and Mr. Madhava Variar. What I mean is that the fourth condition, namely, that the roads have been thrown open to the whole of the public, has not been established because of the existence of the notice boards. The other condition that the roads should not have been thrown open to a section of the public is equally established.

I will now try to meet some of the arguments of Mr. S. Srinivasa Aiyangar. Certainly, I bow to the legal acumen of Mr.Srinivasa Aiyangar. At the same time, I am bold enough to say that he has gone wrong. He has ignored the fundamental distinction that exists between a highway and a common way, and he proceeded on the law obtaining in British India He said that the Government's position is fallacious. He said that there can be a public right of way over a private land. I do not think that Government have ever maintained that there cannot be a public right of way over a private land. I do not think our law is so absurd as he thinks it to be. The site of the roads round the Vaikam temple is temple property. Nobody ever denies that the public can acquire a right of way over it. The only question is whether the castes that we are concerned with have acquired such a right. The public cannot acquire a right of way by easement or prescription. They can acquire it only by dedication. There is no writing to evidence dedication. It may of course be presumed from long user. Mr. Srinivasa Aiyangar argues that, because Christians and Mahomedans were using the roads, we must presume that the whole public have acquired a right. That is incorrect. Presumption is resorted to in the absence of evidence. The non-caste Hindus have not been using the roads in question. In addition to the non-user, there is the existence of notice boards prohibiting 'tindal' classes. Thus then, there is not only non-user but there is also an express prohibition.

MR. A. HOOGEWERF (*Nominated*): May I ask Mr. Subba Aiyar whether, if an Ezhava buys a shop or compound in that prohibited area, the law does not allow him a right of way?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is a hypothetical question that does not arise now. If my friend will wait, he will have an answer to that question later on. When there is an express prohibition, how a right can be presumed in favour of the classes prohibited passes my comprehension.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): When was the prohibition introduced?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Not about 1080 as suggested by Mr. Kumaran. But on going through the papers, I find it is not possible to know the exact date. It must have been long ago; it was certainly not in 1080.

MR. A. HOOGEWERF (*Nominated*): May I ask whether flesh-eating Christians and Mahomedans are allowed to use the roads?

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[Mr. A. Hoogewerf.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In all these matters, there is no question of logic or argument. It is only a question of sentiment and faith. The use of the roads by other religionists may be due to the tolerance shown by the Hindu religion to other religionists or to various other causes. We are not in a position to say why it was. I can answer this question if Mr. Hoogewerf will answer me why a man should be a Roman Catholic and not a Protestant.

MR. N. KUMARAN (*Nominated*): Is Mr. Subba Aiyar aware that, both in the Popular Assembly and in the Press, some communities were agitating about the establishment of the sign boards, mentioning the circumstances in which they were established—that they were established only from the time of Peishkar Sankara Menon?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not in a position to give the exact date; but there was some reference with regard to that. I do not think I need trouble the House with facts and statements in regard to that matter. There is a *kanikkatara*.

MR. N. KUMARAN (*Nominated*): I may inform Mr. Subba Aiyar that the *Kanikkatara* is included in the sign-board and both were erected by Peishkar Sankara Menon.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I can certainly say that the *Kanikkatara* has been in existence for a long time. At any rate, there is absolutely nothing to show that they were using it before 1080. It was in 1920 that they began to object to those notice boards.

MR. N. KUMARAN (*Nominated*): They were objecting to it for the last 20 years.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think Mr. Kumaran's contention is that they were using it. At any rate, there was a notice board which came into existence even according to his contention in 1080 and it was there until recently and the change itself did not exclude the restriction. I must say therefore it was intended that all classes were not allowed to use the roads. So that, when some classes were prohibited from using the roads, it cannot be said that it is a public highway in the sense that all classes were using the same.

MR. N. KUMARAN (*Nominated*): Does the sign-board go closer and closer?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It may be. It may be due to so many reasons, perhaps in order to allow the persons to come nearer and nearer.

MR. A. HOOGEWERF (*Nominated*): Is there a road round the Sree Padmanabhaswami temple?

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MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If for every sentence that I say I am interrupted, then I would take a long time to finish. I have already taken a long time. I think I would have finished my speech by this time but for the interruptions.

MR. N. KUMARAN (*Nominated*): I object to that. Every member is entitled to put a question. I object to Mr. Subba Aiyar saying that he should not be interrupted.

PRESIDENT: He did not say anything objectionable. He said, if he was interrupted, he will take a long time to finish. It is true.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I did not say anything objectionable. I did not question the *bona fides* of the members. Mr. Srinivasa Aiyangar's argument that, by prohibiting certain classes by means of notice boards, the Government admit the road to be public is too subtle to be understood. If there has not been a dedication to the whole of the public, there may not be a dedication at all as a dedication to a section of the public may be said to be void. The question whether there has been a dedication to a section of the public or whether the Christians and Mahomedans are using the roads with the leave and license of the owner, it is unnecessary to consider now. That is foreign to the present discussion. As I said already, in religious matters it is not always reason and argument that govern, but custom and usage. Then again the question raised by Mr. Srinivasa Aiyangar was that the roads are vested in a Municipality and the Municipal Council looks after the sanitation and lighting of these roads and therefore they are public highways. His supposition that the roads are vested in the Municipality is, I regret to observe, wrong. These have been excluded from vesting in the Municipality by a notification under Section 53 of the Regulation (No. 2 dated 5-8-20, published in the Gazette dated 10-8-20). The roads were maintained by the Land Revenue Department and then by the Maramat Department, but never by the P. W. D. which looks after public highways. Mr. Srinivasa Aiyangar admits that the roads are maintained by the Maramat Department; but he says that this circumstance is neutralised by the fact that the Municipality cleans and lights them. In the absence of vesting as evidenced by the notification published in the Gazette, his argument based upon that is not entitled to any weight.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Are not these roads lighted by the Vaikam Municipality?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The fact that a road is lighted or cleaned by a Municipality will not make it a public street or a public road. I may refer to the ruling in 25, Bombay 215 to support my position.

MR. A. HOOGEWERF (*Nominated*): Does not the P. W. D. maintain these roads?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No; if Mr. Hoogewerf has read Mr. Srinivasa Aiyangar's letter, he will find that that matter is referred to in it. I am dealing with the letter

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[Mr. V. Subba Aiyar.]

seriatim. It is next argued that there are marks of P. W. D. on some of the trees standing on the roads in question. True, some trees are marked 'P. W. D.' But they were marked by a mistake. It is common knowledge that the trees standing on the roads are sometimes marked by the P. W. D. eventhough they may belong to the neighbouring land-owners.

MR. N. KUMARAN (*Nominated*): How can they commit a mistake when the roads were maintained by the Land Revenue Department and the Maramat Department? Both things cannot go together.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is human to err. Some argument is sought to be advanced from the change of wording in the notice boards. There was a representation in the Assembly by the members of the community concerned that the words used in the notice boards were insulting to their community. When the words were changed, the intention was to prohibit a section of the public, but the objectionable words were deleted. If, at the instance of the community, the words were deleted, I do not see how any member of the community can now say that Government accepted the right of the public to use the road before they changed it.

MR. N. KUMARAN (*Nominated*): What is there to show that the change was introduced at the instance of the community?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe the interpellations in the Legislative Council and the representations in the Popular Assembly will bear me out.

MR. N. KUMARAN (*Nominated*): As a matter of fact, I was also a member who bitterly complained that the words 'Tindal class' are insulting.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I know, for I have been a member of the Council for a long time, that the late Mr. Kumaran Asan bitterly complained in the Assembly about the using of the words 'Tindal' class and interpellated the Government in the Council and therefore, it was that Government removed those objectionable words and substituted the most inoffensive but at the same time expressive words. To build an argument upon this change brought about at their own request is to say the least unintelligible.

Mr. Hoogewerf referred to the question of purchasing a property on the side of the road by a non-caste Hindu. In the first place I may say that it is a hypothetical question. Secondly, it is not known whether the way is one over which a right of easement of necessity could be enforced. Thirdly, whether one who purchases with the knowledge that he does not possess the right will acquire the right is doubtful. I think that it is a question that has yet to be decided; and therefore I do not wish to talk on this matter at present unless and until it is decided by a competent court.

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Mr. Kumaran stated that the question of trust is not available to Government. Some of the members of the Devaswom Committee thought that it was not a matter of trust but that it was a matter of proprietorship and therefore the report is binding upon Government. Whether the report is binding upon the Government or not is not a matter that has to be decided now. It is a matter which has to be decided in the light of the Devaswom Proclamation. At any rate, before the opinion of the majority of the members of the Devaswom Committee, the decisions in courts were all one way *viz.* that the Government were only trustees. I will refer to XV T. L. R., which says :—

"The mere fact that the Government is the manager of the institution does not make its property the property of the Sirkar. It is quite open to Government to divest themselves of the management of religious institutions as the Government of India has done and delegate their functions to private individuals or Committees. The assumption of Government of the management of Devaswoms is not a confiscation or usurpation and does not vest the properties attached to these institutions in the Sirkar."

In XXII T. L. R., at page 57, we find that their Honors observe:—

"The Sirkar had the power of interfering in the affairs of public institutions under the control of hereditary trustees in case of gross neglect of duty and of assuming management of such institutions without recourse to law if that course is necessary in the interests of such institutions."

Their Honors further observe that the above ruling is :—

"an authority for the position that when the Sirkar assumes the management of a temple, the temple properties do not become Government property and that the assumption is an administrative act founded on the position of Government as *parens patriae*. If so, it follows that the character of the trust and the endowment attached to it cannot be held to undergo any change from the circumstance of the management being undertaken by the Sirkar in supersession of the hereditary managers of such trust."

In the face of the above rulings, it is idle to contend that the Government are not trustees of the Devaswoms.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*) : May I know whether this position of trust is not an obstacle in the light of the recent Devaswom Proclamation?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : I do not see how it is an obstacle.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I know from Mr. Subba Aiyar whether Government will adhere to the position of a trustee?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Whether Government are willing or not, so long as there are rulings they should adhere to them.

MR. N. KUMARAN (*Nominated*) : May I know whether the Proclamation overrides any ruling of the High Court?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Certainly. Not only the Proclamation but also any law that may be passed in this Council may overrule a ruling of the High Court. If a law is enacted by this Council, it is certainly binding upon the High Court.

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[Mr. V. Subba Aiyar.]

MR. A. HOOGEWERF (*Nominated*): Can a ruling of the High Court overrule a Proclamation?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Any law can overrule the decisions of the High Court, and as a matter of fact many laws that we are enacting in this House do overrule the rulings of the High Court; but a ruling of the High Court cannot override a Proclamation. They can only interpret but not make a law.

Mr. Kumaran said that some classes inferior in social status are freely using the road, *viz.*, Kakkalans and Valans. I believe that is a question which will be taking us to discussions which are not very essential. Therefore I think whether a particular class is superior or inferior does not arise here. I may add that Kakkalans do not admit they are inferior in social status. It will suffice for our purpose to say that the Ezhavas and other communities have not been using the roads in question.

MR. T K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I know whether there is any test to know whether a particular class is inferior or superior?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): All classes are equal so far as I am concerned; and I may also say that they are equal, on behalf of Government.

Mr. Kumaran has suggested a new argument that the Ezhavas have been using the road in question. He also referred to the four Ezhava families who are alleged by tradition to have been taking firewood to the temple. It is only a tradition according to him and no inference can be made from it. As for Valans taking Kodikayaru to the temple gate, it appears to be a special privilege to a family and that *suddhi* is performed soon after it is done. Mr. Kumaran evidently bases his conclusion upon the above circumstances and I do not think he will contend that Ezhavas are now using the roads.

I have only to refer to the speech and letter of Mr. Madhavan and Mr. George Joseph. Mr. T. K. Madhavan said in April last—

"We have now taken up the question of securing right of way for the Thiyas and other Tindal castes along roads *hitherto forbidden* to those castes."

I believe that the words "*hitherto forbidden to these castes*" are very expressive and very useful for the present discussion.

Mr. George Joseph, in his letter to Mr. Natarajan, observes as follows:—

"The Vaikam temple was managed by a committee of Nambooris and subsequently confiscated by Colonel Munro, the Resident Dewan. Since then, the road in question has been treated and maintained as a public road. Legally, its position is unquestionable; the depressed classes have the right to pass along it. But the custom is still there that they should not so pass. It is a conflict between law and custom, the upholders of the latter being the minority and of orthodox folk."

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As the existence of such a custom is well known to all the members, I do not wish to trouble the House with further extracts.

The next point I will advert to is that the present agitation is not one for the enforcement of a civic right. I beg to state, with all deference to those who differ from me, that it is not a civic right that is now being agitated. Because, as I said before, so far as civic rights are concerned, Government have been conferring equality of rights. But the present agitation is not one for the enforcement of civic rights. The road in question leads only to the temple and is not necessary for other purposes. The classes in question do use other roads for the above purpose. When a suggestion was made by the Officer in charge of the Administration that, if any inconvenience is caused to the community in the exercise of civic rights, other roads will be opened for them to give all possible facilities, that suggestion was repelled immediately by those persons who were agitating for the opening of these roads. Mr. Sreenivasa Aiyangar himself has said that "if the matter rested upon questions of practical utility that might serve, but that the question is one of sentiment." The agitation then is not for the enforcement of civic rights or to remedy any grievance which is tangible but to satisfy a sentimental grievance. I daresay that is the object of the agitation that has been started. The present agitation is thus based on sentiment. The orthodox section base their objection on the ground of long-established usage coupled with *religious* sentiment. So we have the question of sentiment on one side and *religious* sentiment and long-established usage on the other. Out of 4,000 miles of roads in Travancore, all but a few miles near temples and palaces have been thrown open and the reservation of these few miles has been made on religious grounds. It may be wrong according to modern opinions that a temple should be polluted by the approach of members of a particular community. Whether it is right or wrong we are not concerned with now. Probably, many of the existing customs and usages among the followers of various religions may be considered to be absolutely undesirable in the light of modern opinions or when tested by the reason of logic. But, all the same, we cannot ignore the existence of such customs and usages.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): Suppose they are unreasonable.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If the Government can interfere, they can remedy. But when there is the question of religious sentiment and usage, Government cannot take any action in the matter.

MR. A. HOOGEWERF (*Nominated*): May I know whether the religious sentiment of an Ezhava is also not affected when his brother Christian or Mahomedan is allowed to pass along the road which is prohibited to him?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am not able to see any religious sentiment there.

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[Mr. V. Subba Aiyar.]

The Congress agitators have no right to ask the Government to settle religious disputes. If such disputes affect civil rights, there are the Courts of Law and recourse must be had to them for the vindication of such rights. Here what we have is this. A Magistrate apprehending a breach of the peace issues a prohibitory order. The moment that prohibition is known, any person who thinks that he is aggrieved must have recourse to the Civil Courts to test the validity of the Magistrate's order. The Government are bound to respect and enforce the decisions of the Civil Courts whatever the nature of such decisions may be. Therefore I say instead of having recourse to the ordinary way for the redress of a grievance the starting of an agitation would not be the proper procedure. I may draw the attention to the case in V. T. L. R. which I have already quoted and which originated on the ground that a Magistrate prohibited the Christians from going in procession over a particular road. The remedy in the matter now before us would be to file a suit for the adjudication of the right in one way or other in a Civil Court. When once the Magistrate, after being satisfied that the requirements of the Section exist, issues a prohibitory order, if any one is aggrieved, he should have recourse to the Civil Court.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know whether in schools Ezhavas are prevented from attending?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): This question does not arise here. I may not agree, for instance, to be polluted. I may sit here side by side with the untouchables; but when I go home I may have my bath and my *japom* irrespective of the fact that I sit by the side of an untouchable. What I say is, it is purely a social matter and religion has nothing to do with it at all. The question we are concerned with is whether a temple which is adjoining a road will be polluted and whether religious worship will be affected. The moment you interfere with the religious worship of one section of the public, you know what the consequences will be. To have recourse to civil courts is not my suggestion alone. I can refer my friend Mr. Kumaran to a person whom they regard as one of the staunch supporters and advocates of the Satyagraha movement *i. e.* Mr. C. F. Andrews. He said that—

> "the opposition is really genuine and we have to reckon with it. This feeling is rather deep-seated in the human heart in that place (Vaikam) and in answer to a question as to what he thought of the idea of bringing a test case questioning the legality of the Police action in obstructing the entry of the volunteers he said, "Personally I think the more these cases are brought up before courts for legal decision, the better for the cause. We ought to know exactly where the law stands in the matter of the right of entry to public roads."

The existence of a religious usage is not peculiar to Travancore. It exists everywhere else. It exists in Salem as will be seen from Mr. Verian's case at Kamalapuram. The Congress party did not start Satyagraha movement there. Their decision was that the country was not ripe for it. The custom is not peculiar to the case of Hindus alone.

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It exists even among non-caste Hindus. I believe Ezhavas themselves will bear me out in the matter. Again some of the members might have read in the *Madras Mail* that there was an agitation in Tinnevelly among the Nadars as to the distinction between Nadars who are toddy-drawers and the non-toddy-drawers about the right of worship in a temple. In other words, what I say is that this question is not restricted to caste-Hindus alone.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What about the Kalpatti affair?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am coming to that. It is also found among Christians and Mahomedans. The opinion of Mr. Andrews is very pertinent in this connection:—

"This is not an isolated Hindu problem at all. The Christian Churches in the South of India had been keeping up an attitude of strict untouchability towards certain classes of the community. This mental attitude had in no way differed from that of the neighbouring caste-Hindus. I made also a further discovery that among Mahomedan and Christian villages in India there is often the same reluctance to share the wells with the untouchable classes."

He also quotes an instance which occurred on 7th February 1924 at Karachi when two untouchables were forcibly ejected from a tramcar.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know whether he knows anything about caste among Christians?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe Mr. Nidiry is a Syrian Christian and I may just ask my friend how many of these Christians have allowed these untouchables to enter their compounds and houses and whether all Christians of the same denomination are allowed to worship in the same church. However reasonably we may argue to our satisfaction, it cannot be denied that a question of usage and religious sentiment is involved in the matter. May I ask every member who supports this resolution to ask his own wife or mother whether they will be a party to such an agitation? May I also ask how many women there are who are interested in this movement? I do not suggest for one moment that that usage is a reasonable one. Let us grant that it is a most obnoxious and unreasonable one. Yet to say that the State should interfere is rather a difficult thing. May I draw the attention of the House to the dispute between caste-Christians and non-caste Christians at Trichinopoly? I do not know whether the riot cases have been disposed of. Even the presence of the Visitor Apostolic was not able to bring peace.

MR. A. HOOGEWERF (*Nominated*): I know the cases referred to by the Law Member. We consider them as an abomination. The Visitor Apostolic told the caste-Christians who were not willing to bend their knees to their diocesan Bishop to right about turn and march out.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): My point was that there are caste-Christians and non-caste Christians. I am only referring to that instance. Not for any other purpose.

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[Mr. V. Subba Aiyar.]

MR. A. HOOGEWERF (*Nominated*): Is it due to the environment of caste?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is the paramount duty of Government to maintain the *status quo* especially when an innovation is likely to cause a breach of the peace. In this connection Mr. P. K. Narayana Pillai drew my attention to the Madras Government order on the Kalpathi affair. I may at the outset say that the ruling in Madras has all along been that every road is a public highway and therefore all classes have got the right of access. There was no distinction all along between a public way and gramaveethi till the resolution was accepted by Government. But when the Government began to give practical effect to the resolution, the result was a riot at the Kalpathi village in spite of the Government accepting the resolution. As the Government are responsible for the maintenance of peace, law and order, they thought that they should re-examine the question and issued a communique which, I do say and maintain, is strictly in accordance with the ruling laid down by 5 T. L. R., a ruling which has been in existence here for a long time and now virtually approved by the Madras Government. 5 T. L. R. is not out of date as Mr. Nidiry would put it. That communique says:

"Where Agrahara-streets form a natural means of access to a main road or business centre the Government conceive that persons using the streets as thoroughfares should ordinarily be supported against any attempt to obstruct them, but the local officers should not regard themselves as necessarily bound to take action in support of the entry into an Agraharam when the entry is dictated merely by the desire to assert an abstract right and has no basis of business or of practical convenience."

That I say is the test. Here, what are the facts? These roads are not required for any other purposes than for an entry to the temple. They do not lead to any public road or Government offices. If there was any inconvenience, Government promised to open fresh roads at any cost. That was not agreed to as they only wanted Government to satisfy their sentiment. What I say is that the Madras G. O. has only adopted a procedure that we have all along been adopting.

MR. N. RAMAKRISHNA PILLAI (*Vaikam cum Ettumanur*): Is the Madras ruling pertinent to the Travancore ruling?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am prepared to accept the dictum laid down by the dissenting Judge Dr. Ormsby.

MR. N. KUMARAN (*Nominated*): Why not withdraw the prohibitory order?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The prohibitory order was based upon the grounds mentioned by the District Magistrate. The Government in addition to their responsibilities as Government have their responsibilities as trustees. They are bound to administer the Devaswoms in accordance with past usage and custom. The

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Government do not wish that their action should in any way be characterised as a betrayal of trust. I need only draw the attention of the House to a case reported in 31 Madras where with reference to a temple in Ramnad there was a suit for a declaration that Shannars had a right to enter and worship in a temple. The Sub-Judge dismissed the suit and there was an appeal to the Madras High Court and yet the trustee, the Raja of Ramnad, compromised the suit pending the appeal by agreeing to allow the Shannars to worship in the said temple. Some of the worshippers objected to this compromise and wanted to be impleaded as parties. The High Court impleaded them and refused to make a decree in accordance with the compromise. The matter went up to the Privy Council. With regard to the compromise their Lordships have remarked as follows:—

"Their Lordships have spoken of 'the respondents' generally; but it is necessary to note the episode in the proceedings euphemistically described as 'the compromise.' The original plaintiff in the suit was the Raja who was the hereditary trustee of this temple, which was the temple of one of the villages in his zamindari. After the case had been decided in his favour by the Subordinate Judge, this person thought fit to profess that he now saw that he and the Judge were wrong; and he asked that the judgment should be altered, so as to defeat his own action. A very sordid motive for this surrender was specifically asserted and has not been disproved. The Court, on being applied to, very properly reinforced the cause of the worshippers of the temple by joining certain new plaintiffs to the original plaintiff (whose confidence in the justice of his suit had by this time convalesced). The principles applicable to the case of a trustee who thus betrays his trust by surrendering a decree have been well stated and applied by the High Court."

So I ask this House to say whether, if that was the religious usage that was all along in existence, the Government can change it. According to Section 5 of the Devaswom Proclamation, we are bound to maintain.—

Mr. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether any suit will lie to combat the Devaswom Proclamation?

Mr. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Not for anything done under this Proclamation; certainly a suit will lie for the enforcement of their right by non-caste Hindus. I have also to say a few words with reference to interference of the Congress agitators. Untouchability has not been removed in Kerala or in other parts of British India. Why was not Satyagraha started in Kamalapuram in Salem? Even the District Congress Committee has stated that the people are not ready for it. The Satyagraha movement has accentuated communal differences and has aroused caste hatred. It has been instrumental in bringing the authority of law into contempt. Though Travancore is far more advanced in the matter of treatment of the untouchables than other States or British India, an attempt has been made to bring Travancore and its administration into discredit. It has also succeeded in stiffening the attitude of the caste-Hindus inasmuch as they consider this to be a serious inroad upon their cherished religious beliefs and suspect that this is only a prelude to temple entry. Though the utterances of some would suggest that temple entry is not the object, the speeches of others and the conduct of some make it clear

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[Mr. K. Parameswaran Pillai.]

that the orthodox people are not wrong in their view of the matter. Above all, the speeches of some have tended to create disaffection among the subjects towards their Sovereign. Judge-made law is as binding upon the people of this State as any law passed by this House. This House has a responsibility to see that the laws of the land are respected and that by any act of theirs they do not produce any contrary impression. No court will pass a decree which is likely to be ineffective or infructuous. The Council should not pass a resolution which the Government cannot legitimately give effect to. By trying to favour one community, the religious feelings of others based upon the customs of centuries should not be disregarded. Even minorities have got a right to exist in Travancore and their rights should be protected by the State.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): May I know whether it is the right of the minority that the Government are trying to protect against the right of the majority?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is a question of fact to be decided whether it is a right of the majority.

The House should realise the difficulty and delicacy of the Government in the matter and not embarass them by accepting the resolution. The Government cannot play the role of a social reformer and change religious beliefs by executive orders.

There is the distinction between a public highway and the *gramaveethis*. The roads in question are not public highways. There is the prohibitory order and that has to be obeyed now. If that order is objectionable, there is the civil court to redress the grievance.

I ask the question in all seriousness whether it is not the duty of this House to see that the laws they enact are not disregarded and disobeyed and whether this Council will countenance such disobedience by passing such a resolution. I have not the slightest doubt that the House will return only one answer and that is an emphatic "no."

MR. A. HOOGEWERF (*Nominated*): I wish to know from the Law member how he has come to the conclusion that this is not a public highway?

PRESIDENT: He has adduced arguments in support of his position.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I wish to know from Mr. Subba Aiyar whether these roads were never being maintained by the P. W. D.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They were never maintained. My information from the files is that they were never maintained.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): When were the trees marked by P. W. D?

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MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe it was about four or five years ago.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): At that time, which department was maintaining this road?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The Land Revenue Department.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Will Mr. Subba Aiyar say why, when these roads were not being maintained by the P. W. D. but by the Land Revenue Department, the P. W. D. should have marked these trees? The question is whether anybody marked them, and whether the P. W. D. took possession of them without knowing whether they had anything to do with the maintenance of the roads or the marking of the trees.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It was done by mistake?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know whether Mr. Subba Aiyar investigated as to how these trees happened to be marked by a mistake.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. It was found to be a mistake.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): What was the mistake due to?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The trees which did not belong to the P. W. D. were marked by the P. W. D.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I wish to know how the mistake arose. Why did the P. W. D. mark them?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Because the P. W. D. thought that they had a right over all *porambokes*. These trees were thought to be on the *porambokes*.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Irrespective of the roads being maintained by the P. W. D., do they not know that the roads which were not maintained by them were not under their custody and so they were not entitled to mark them?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I believe my friends will bear me out that the P. W. D. sometimes mark the trees on the compounds of houses by mistake. They are liable to commit mistake.

PRESIDENT: Even in compounds which adjoin public roads, the P. W. D. mark the trees, sometimes.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Are all the roads maintained by the P. W. D. highways as contemplated in 5 T. L. R?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

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[Mr. N. Ramakrishna Pillai.]

PRESIDENT: Mr. Subba Aiyar has already stated that the mere maintaining of roads does not necessarily make them King's highways.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Am I to understand that all roads maintained by the P. W. D. are King's highways?

PRESIDENT: I must say that the question is unnecessary as Mr. Subba Aiyar has already said that the mere fact that a road is maintained by the P. W. D. does not necessarily mean that it is a King's highway.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): He said that all the roads maintained by the P. W. D. are King's highways as contemplated by 5 T. L. R.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is to say if they satisfy the other conditions.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): What are those other conditions?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have already enumerated them. I cannot give specific instances where all these roads are being maintained by the P. W. D. unless I am specifically referred to it.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know whether the Devaswom Department has got the right of closing this road to all the communities who are now using these roads?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not want to discuss this question. It is unnecessary to consider whether it is a question of dedication or, in the absence of dedication, of leave and license.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I think it is a very pertinent question.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Here it is irrelevant. I say that, in the absence of dedication, there is only the other alternative *viz.*, leave and license.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I am asking whether the Government now holds that it is open to the Devaswom Department to close these roads to all communities.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That question has not been considered or discussed till now.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether there is any right vested in the Municipality?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Absolutely no right.

MR. N. RAMAKRISHNA PILLAI (*Vaikam cum Ettumanur*): Mr. Subba Aiyar said that these roads are leading to the temple. May I know where these roads begin?

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PRESIDENT: They begin from various places.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): One road begins from the lake.

MR. N. RAMAKRISHNA PILLAI (*Vaikam* cum *Ettumanur*): Are not these roads the continuation of the other roads?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): One road begins from Ernakulam. (*Laughter.*)

MR. A. HOOGEWERF (*Nominated*): Have the Government entered into official correspondence with the Chief Engineer regarding these roads and found out in black and white whether they have been all along maintaining them?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes.

MR. A. HOOGEWERF (*Nominated*): What is the answer?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The answer is that the P. W. D. have nothing to do with them.

MR. A. HOOGEWERF (*Nominated*): Will the Government be pleased to place the papers on the table.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They will consider it.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): Trees belonging to the P. W. D. are marked as P. W. D.; trees not belonging to them are also marked and leased out. What is this due to?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They may be mistakes.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): Mr. Subba Aiyar says that it was by a mistake that the trees were marked. Sometimes these trees are leased out. How does he explain that?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Probably it may be a mistake.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): I know of cases where trees which are marked 'P. W. D.' are not leased out.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I used that argument simply for refuting an argument brought forward by certain members that, because the trees are marked by the P. W. D., the road would have been maintained and leased out by the same Department. It is only a mistake.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): Is he aware of any trees marked 'P. W. D.' which do not belong to the P. W. D. and which are not maintained by them? He was stating that sometimes even trees standing within compounds of private owners are marked 'P. W. D.' Can he mention an instance?

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[Mr. Tariatu Kunjitomman.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I cannot give specific instances just now.

MR. TARIATU KUNJITOMMAN (*Muvattupuzha*): ലോകത്തിൽ എവിടേയും മനുഷ്യക്ക് റോഡുകളിൽ സഞ്ചാരസ്വാതന്ത്ര്യം അനുവദിച്ചിട്ടുണ്ട് എന്നു കാണാവുന്നതാണ്. ധർമ്മരാജ്യമായ ഈ നാട്ടിലെ പൌരന്മാക്ക് ചില റോഡുകളിൽ ക്രടി നടക്കാൻ പാടില്ലെന്നു തടസ്സം ചെയ്തിരിക്കുന്നു. ഇതു വളരെ കഷ്ടതരമാണെന്നാണ് രാജ്യത്തിലെ ഭ്രൂരിപക്ഷം ജനങ്ങളും വിചാരിക്കുന്നതു്: എന്റെ നിയോജകമണ്ഡലത്തിലെ ജനങ്ങളിൽ മഹാഭ്രൂരിപക്ഷവും ഈ രാജ്യത്തുള്ള റോഡുകളിൽ എല്ലാ മനുഷ്യക്കും സഞ്ചാരസ്വതന്ത്ര്യം ഉണ്ടായിരിക്കണമെന്നുള്ള പക്ഷക്കാരാണെന്നാണ് ഞാൻ വിചാരിക്കുന്നതു. ഈ പ്രമേയത്തെ പൂർണ്ണമായി അനുകൂലിക്കണമെന്നു അവരിൽ പലരും എന്നോടു പറഞ്ഞിട്ടുമുണ്ടു. ഈ പ്രമേയം ഇന്നിവിടെ വാദത്തിനെടുക്കുമെന്നു ജനസാമാന്യം പത്രങ്ങൾ വഴിക്കും മറും വേണ്ടപോലെ ധരിച്ചിട്ടുണ്ടു്. എന്നിട്ടു് ഒന്നരലക്ഷത്തോളം ജനങ്ങൾ അടങ്ങിയ മൂവാറ്റുപുഴ നിയോജകമണ്ഡലത്തിലെ പൌരന്മാരിൽ ഒരാൾ പോലും ഈ പ്രമേയത്തെ എതുക്കണമെന്നു എന്നോടു പറഞ്ഞിട്ടില്ലാ. എന്നല്ലാ ഈ രാജ്യവാസികളിലും ഭ്രൂരിപക്ഷം പേർ ഈ പ്രമേയത്തെ അനുകൂലിക്കുന്നവരാണെന്നാണ് എന്റെ വിശ്വാസം. നമ്മുടെ സഹ പൌരന്മാരും മനുഷ്യവർഗ്ഗത്തിൽപെട്ട സഹോദരന്മാരും ആയവരെ നായ്ക്കളും പന്നികളും കടന്നു പോകുന്ന റോഡിൽ ക്രടി കടന്നുപോകുവാൻ അനുവദിക്കുകയില്ലെന്നു വന്നു ക്രൂരന്നതു് ഏറ്റവും കഷ്ടതരമായ അവസ്ഥയാണ്. ഇതു ധർമ്മരാജ്യത്തിലെ പൌരന്മാക്കു ലജ്ജാകരവും മനുഷ്യകുലത്തിനു തന്നെ അപമാനകരവുമായ കാര്യമാണെന്നു നിസ്സംശയം പറയാം. ഈ രാജ്യത്തിന്റെ അഭിമാനത്തേയും ഉൽകർഷത്തേയും ലാക്കാക്കി പ്രവൃത്തിക്കുന്നതിനുള്ള ഈ പ്രതിനിധിസഭയിൽ മനുഷ്യരുടെ ഹൃദയത്തെ തപിപ്പിക്കുന്നതും ലജ്ജിപ്പിക്കുന്നതുമായ ഒരു കാര്യത്തിനു അനുമതി നൽകുകയാണെങ്കിൽ അതു എത്ര കഷ്ടതരമായിരിക്കും. ആത്മാഭിമാനത്തേയും പൌരുഷത്തേയും ജനങ്ങളിൽ വർദ്ധിപ്പിക്കുന്നതിനും രാജ്യത്തിന്റെ സ്ഥിതിയെ ഉത്തരോത്തരം ഉൽകർഷപ്പെടുത്തുന്നതിനും അല്ലാതെ പൌരതതിയെ അധഃപതിപ്പിക്കുന്നതിനും അപമാനിക്കുന്നതിനും കഷ്ടത അനുഭവിപ്പിക്കുന്നതിനും ഇട ആക്കുന്നതിനു പ്രതിനിധികൾക്കു പ്രവൃത്തിക്കാൻ പാടുള്ളതല്ല. അതിനാൽ രാജ്യത്തിന്റെ എല്ലാഭാഗങ്ങളിൽ നിന്നും വന്നിട്ടുള്ള ജനപ്രതിനിധിക

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ളായ മാന്യസ്നേഹിതന്മാരേ. ഈ രാജ്യത്തിൽ പൌരസ്വാതന്ത്ര്യത്തേയും ജനങ്ങൾക്ക ഉൽകർഷത്തേയും ഉത്തരോത്തരം വർദ്ധിപ്പിക്കാൻ നമുക്ക ശ്രമിച്ച പരിശ്രമിക്കാം. സഞ്ചാരസ്വാതന്ത്ര്യം ഇല്ലാത്തതിനാൽ അസമാധവും അപമാനവും അനുഭവിച്ചുകൊണ്ടിരിക്കുന്ന ഈഴവസമുദായത്തിലും മറ്റു അധഃകൃതവർഗ്ഗങ്ങളിലും പെട്ടവരും നമ്മുടെ സഹോദരന്മാരാണെന്നുള്ള ബോധത്തോടുകൂടി അവക്ക മുന്നോട്ട വരുന്നതിനുള്ള അവരുടെ ശ്രമങ്ങളിൽ പൂർണ്ണമായി സഹായിക്കാം. ഈ വിധത്തിലുള്ള ശ്രമത്തിന്റെഫലമായി പൌരസമത്വവും പരസ്പര ഐക്യവും രാജ്യത്തുണ്ടാകട്ടെ. ഏതു മതത്തിലൊ ജാതിയിലൊ പെട്ടവരായാലും തങ്ങളുടെ മതവും സമുദായവും മനുഷ്യജാതിയെ ഉൽകൃഷ്ടപ്പെടുത്തുന്നതിനല്ലാതെ അധഃപതിപ്പിക്കുന്നതിനാണ് പരിശ്രമിക്കുന്നതെന്നു പറയുവാൻ ഒരുമ്പെടുകയില്ല.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): തുശ്ശിനാപ്പള്ളിയിലെ ലഹളകളെപ്പറ്റി കേട്ടിട്ടുണ്ടോ?

MR. TARIATU KUNJITOMMAN (*Muvattupuzha*): പലയിടത്തും ലഹളകൾ ഉണ്ടായിട്ടുണ്ടെന്നു കേട്ടിട്ടുണ്ടു. എനിക്ക ഹിന്ദുക്കളുടെ മതക്കാര്യത്തിൽ വിഘ്നമുണ്ടാക്കണമെന്നു ഉദ്ദേശമില്ലാ. മാർഗ്ഗതടസ്സം യാതൊരു മതപ്രകാരവും ന്യായമാണെന്നു തോന്നുന്നില്ലാ. ബ്രാഹ്മണരും നായന്മാരും ഈഴവരും ഹിന്ദുക്കളായ മറ്റു പല ആളുകളും അന്യായമായി സവർണ്ണരും അവർണ്ണരും റോഡുകളിൽ പ്രവേശമനുവദിക്കുന്നകാര്യത്തിൽ അനുകൂലികളായിട്ടാണ് കാണുന്നതു. ഏറെറം കുറച്ചാളുകൾ പ്രതികൂലികളും ഉണ്ടായിരിക്കാം. എന്നാൽ മാർഗ്ഗതടസ്സം ചെയ്യരുതെന്നു പറയുന്ന സവർണ്ണരുംപ്പെടെയുള്ള ഹിന്ദുക്കൾ മതബോധം ഇല്ലാത്തവരല്ലല്ലൊ. മതതത്വപ്രകാരമാണ് മാർഗ്ഗതടസ്സം ചെയ്യുന്നതെന്നു പറയുവാൻ പാടില്ലാ. രാജ്യഭരണത്തിന്റെ മൂലപ്രമാണമനുസരിച്ചു നോക്കുമ്പക്ഷവും മനുഷ്യരെ അധഃപതിപ്പിക്കുന്നതിനു യാതൊരു ഗവർമ്മെൻറിനും പ്രവൃത്തിക്കാൻ പാടില്ലാ. ഏതു ജാതിയിലും മതത്തിലും ഉള്ള ജനങ്ങൾക്കും ന്യായമായ പൌരാവകാശം അനുഭവിക്കാൻ ഗവർമ്മെൻറു തുല്യസ്വാതന്ത്ര്യം നൽകേണ്ടതാണ്. തങ്ങളുടെ ആത്മാഭിമാനത്തെ ക്ഷണപ്പെടുത്തുമാറു ജനങ്ങളോടു യാതൊരു ഗവർമ്മെൻറിനും പ്രവൃത്തിക്കാൻ പാടില്ലാ. ഈ പ്രമേയത്തെ വോട്ടിനു ഇടുന്ന അവസരത്തിൽ രാജ്യത്തിന്റെ എല്ലാഭാഗങ്ങളിലും ഉള്ള ൪൦ ലക്ഷത്തോളം ജനങ്ങളുടെ പ്രതിനിധികളായി ഇവിടെ സന്നിഹിതരായിട്ടുള്ള നാം എല്ലാവരും നമ്മുടെ സഹോദരന്മാരുടെ കഷ്ടതക്കും അപമാനത്തിനും പരിഹാരം

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[President.]

ഉണ്ടാക്കുന്നതിനു യോജിച്ചു നമ്മുടെ കരങ്ങളെ നാം പ്രാതിനിധ്യം വഹിക്കുന്ന ജനങ്ങളുടെ ഹിതാനുസരണം ഉയർത്തണമെന്നു പ്രസ്താവിച്ചുകൊണ്ടു വിരമിക്കുന്നു.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*) : Vaikam is far away from Kottarakara and after the last sittings of this Council I had been to Vaikam just to have a look at the roads in dispute. From the position of those roads it did not occur to me that the entry of the *Avarna* Hindus into those roads is objectionable in any way. I am aware of similar roads leading to and around temples in many other parts of the State. In my own constituency, there are certain temples, both private and Sirkar, around which there are roads through which *Avarna* Hindus are freely allowed to pass. They are allowed to pass as far as the outer walls of all the temples, while, in one or two instances, I am aware that they are allowed to go even within such limits. I believe every one here has heard of the Vettikavala temple around which there are roads. There, no such prohibitory measure exists. And further in one corner within the four walls of the same temple there is a place which is set apart for these *Avarna* Hindus to go through. Now again, there are two other temples in the heart of the town. One is called Manikantesvaram temple which belongs to two Nambudiris jointly. That temple is situated within Sanketam limits. There is a road which starts from that temple to another road just on the western side of it which is called *western kara* which belongs to the Sirkar. Through this road I find that all *Avarna* Hindus are allowed to pass freely. On either side of this road live Brahmins who do not put forward a case that they are being polluted. Grounds alleged by the oppositionists appear to be, Sir, first pollution of temple and tank and secondly pollution of the *Gramavithi* or of the Brahmins living on either side of the *Gramavithi*. Taking into consideration the instances of temples I have just quoted, I do not think pollution can exist in the Vaikam temple as well. Further, the outer walls of the temple are so constructed that according to Sastras distance pollution of the *vithi* is impossible.

Then, with regard to the pollution of *Gramavithis*, we all know of so many *Gramavithis* that are in existence in Travancore along which these *Avarna* Hindus are allowed to pass without being prevented on the ground of pollution.

Then with regard to the other two grounds that have been brought forward at one stretch by Mr. Subba Aiyar, I cannot concede that the road in question is not a public road or that the road lies within the temple Sanketam.

PRESIDENT: Mr. Subba Aiyar did not say that it is not a public road. What he said was that it is not a public highway.

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MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): In the course of the speech, his argument appeared to me to be that the question involves an issue of facts which has to be decided by a court of law. That argument of his involves a further question, as to who should go to the court of law. Now, Sir, we see that the *Satyagrahis* are at the barricade to enter and the policemen are there to prevent. Neither of those parties is going to a court and if that is the issue of fact to be decided by a court of law, I do not see how this resolution on the roads in question was tabled for discussion in this Council.

PRESIDENT: I do not follow you.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): If the dispute between the parties is one that involves an issue of fact as to whether the road in question is a public highway or a *Sanketam* highway, and if that has to be decided by a court of law, I do not know why this Council is asked to discuss that question and arrive at a decision.

PRESIDENT: This is a non-official resolution.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Yes, it is a resolution relating to that particular matter.

Now that stage is over. Leaving both the parties there at the barricade, we are here to discuss the merits of the resolution. If as a matter of fact we are to agree to the argument of Mr. Subba Aiyar that the matter has to be fought out in a court of law, the only question that we have to consider is, "Who should go to the court of law or who should be driven by this Council to go to a court of law?" I have to state that we have to decide the question in favour of the weaker side and drive the stronger side to the court.

MR. C. SANKARA MENON (*Quilon*): Does he mean the side which is numerically strong.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Pecuniarily also. Whenever a right of property or the possession thereof is in dispute between two parties, generally one of the parties launches a case in the criminal court stating that his property has been trespassed upon. The criminal court ordinarily decides one way or the other. Then the party concerned goes to the civil court.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask Mr. Kochukunju Pillai whether a criminal court has not issued a prohibitory order against the non-caste Hindus?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I am not referring to any prohibitory order at all.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): What is it then?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I am discussing the question as to who should be the party to go to the civil court or to the criminal court to fight out the case. That is all.

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[Mr. M. N. Pillai.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask Mr. Kochukunju Pillai whether the members of this House have got a right of criminal or civil or revisional jurisdiction?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I do not know all that. But he himself argued that it is a matter to be fought out in a civil court. But now that we are asked to decide the question, we have simply to see who should be driven to the court. I think it is good that we the members of the Council should decide the question in favour of the *Avarna* Hindus.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): When the criminal court convicts a person, he suggested that one party might be asked to go to a civil court. Supposing a *Satyagraha* volunteer is convicted, and supposing we will for a moment assume that this Council has got the power to say as to which party shall go to court, suppose we ask the anti-*Satyagrahis* to go to a criminal court and get an order in their favour and that is not obeyed by the *Satyagrahis*, what is his further solution?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I do not say that the *Satyagrahi* should go to a criminal court.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I mean the anti-*Satyagrahis*.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I do not propose any more reference to criminal courts.

The Council adjourned for lunch at 2-20 P. M. and reassembled at 3-13 P. M.

MR. M. N. PILLAI (*Trivandrum*): Sir, I heartily support the resolution. The object of this resolution is to remove untouchability and unapproachability of the depressed classes and give freedom of movement to all classes of subjects of Her Highness the Maha Rani Regent. The freedom of movement in all public places is the birth-right of every citizen in a civilised country. There are about 17 lakhs of Hindus who are known as non-caste Hindus. They are classed as untouchable people. It is cruel that the elementary rights of citizenship are denied to these 17 lakhs of Hindus in a Hindu country like Travancore. The caste-Hindus of Travancore, it must be remembered, cannot but move along with the advance of the times and this cursed custom of untouchability and unapproachability must be wiped out from this country.

It is very encouraging that the majority of the caste-Hindus are for the removal of this evil practice and many of them are doing their best for this noble cause. No right-minded caste-Hindu wants to perpetuate the *theendal* and *thodyil*. The growth of political and social consciousness among these classes is one of the reasons for starting Satyagraha at Vaikam to pass along roads situated near the

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temple. No Government or any caste-Hindu can put obstacles on their march towards freedom. Every caste-Hindu knows that an Ezhava or Pulaya going through the roads outside Vaikam temple could do no harm to the deity inside the temple. The objections raised by a few caste-Hindus at Vaikam are not shared by the majority of advanced and educated classes of caste-Hindus and their irritation is merely artificial and insincere. These 17 lakhs of people were looking up to Government and the caste-Hindus for some years past to remove the nefarious custom and liberate them from the tyranny of orthodox opinion, but it was all in vain. It is on account of this intolerable situation that the Ezhavas and other depressed classes have taken to Satyagraha at Vaikam roads. Their leaders found that any amount of representation, appeals etc., will not move Government and a few caste-Hindus and they began to assert their birthright by offering Satyagraha. The attitude of the majority of the caste-Hindus at Vaikam and elsewhere towards these unfortunate Hindu brethren has changed for the better and many of them have begun to help them to remove this inhuman practice. The awakening amongst the depressed classes is so rapid that the time is not far off, when they will be on the same level with any caste-Hindu in the social ladder. The Hindu society has already become thin and year after year several Hindus are embracing other religions for the sake of liberty and social elevation. The treatment accorded to these unfortunate people is the chief reason for driving them out of the fold of Hinduism. Why should we become weaker and weaker day by day by maintaining this meaningless custom? Should we perpetuate this tyranny even in these advanced days? Our Government are very sympathetic towards them in affording facilities in the matter of education and official preferment. The time is not far off when we will find brilliant men coming up from these depressed classes in larger numbers than at present. It is a thousand pities that Judges, Munsiffs, Tahsildars and Magistrates belonging to these communities cannot pass along these roads when Mahomedans and Christians are allowed to pass these roads without let or hindrance. It is a disgrace to Hindu religion, when Indians are fighting for equality in South Africa and other places, they cannot find equality in their own country which is ruled by a Hindu Sovereign. Is it not bare justice they demand? The objection of the caste-Hindus is mostly engineered by a few interested persons who fear that they will lose their prestige and emoluments if the non-caste Hindus are given access to these roads. I am sure the false notions would vanish the next day the Police are withdrawn from these roads. Travancore boasts itself as the most enlightened Hindu State with a high percentage of literacy and it is a disgrace to the whole country and the Hindu religion to adhere to this evil custom any longer. I request the House to give these people freedom of movement through Vaikam roads and other roads similarly situated. No amount of Police force, no appeals to rigorous but spent-up custom will prevent the forces of civilisation and enlightenment from asserting themselves in furtherance of a sacred cause. The caste-Hindu ought to learn that

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[Mr. T. Kumara Pillai.]

unnecessary divisions among themselves which are based on meaningless forms and exploded maxims will eventually work for their own ruin. The whole country is passing through a period of great excitement. The ideas of justice and toleration, of freedom and equality can never be conquered when once they have started their noble work. Let me therefore appeal to the good sense of the House, to the sense of patriotism of its members to accept the resolution which is broad-based on the spirit of fairness and toleration and supported by the overwhelming majority of the caste-Hindus throughout the land.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*): വൈക്കം ക്ഷേത്രത്തിനു ചുറ്റുമുള്ള റോഡുകളും അതുപോലെസ്ഥിതിചെയ്യുന്ന മറ്റുറോഡുകളും ജാതിമതഭേദം കൂടാതെ എല്ലാപ്രജകൾക്കും സഞ്ചാരസ്വാതന്ത്ര്യം ഉണ്ടായിരിക്കണമെന്ന് മിസ്റ്റർ എൻ. കുമാരൻകൊണ്ടുവന്നിട്ടുള്ള പ്രമേയത്തെ ഞാൻ ഹാർദ്ദമായിപിൻതാങ്ങുന്നു. ഈ പ്രമേയം നിയമസഭയിൽ ഹാജരാക്കിയകാലത്തു് മിസ്റ്റർ കുമാരന്റെ പ്രസംഗവും അതിലേക്കുള്ള ലാ മെംബറുടെ ഇന്നത്തെമറുപടിയും ശ്രദ്ധയോടുകൂടി കേട്ടുകൊണ്ടുതന്നെയിരുന്നു. ഈ സംഗതിയിൽ എനിക്കുള്ള ഒരുവാദത്തിന് മിസ്റ്റർ സുബ്ബയ്യരുടെ മറുപടിയിൽ നിന്നും ശരിയായ സമാധാനം കിട്ടുമെന്ന് ഞാൻ ആശിച്ചിരുന്നു. അതായതു് വൈക്കം റോഡിൽ ഇന്നു് സഞ്ചരിക്കാൻ പാടില്ലാത്ത ഒരാൾ മതവും പേരും മാറുന്നതായാൽ അതിലെ കടന്നുപോകാമെന്ന് അനുവദിച്ചിരിക്കുന്നു. അതിൽ മിസ്റ്റർ സുബ്ബയ്യർ പറയുന്നതു് അടുത്തകാലത്തു് മതം മാറിയിട്ടുള്ള ഒരു ക്രിസ്ത്യാനി പോകാൻ പാടില്ലെന്നു് പറയുന്നതല്ലാതെ ക്രിസ്ത്യാനികൾക്കും മഹമ്മദീയർക്കും അവിടെസഞ്ചരിക്കാൻ പൊതുവെ അനുവദിച്ചിട്ടില്ലെന്നു് പറയുന്നില്ല. ഇതിനാൽ അർത്ഥമാകുന്നതു്. സാമുദായികമായി പതിതനിലയിലാക്കി പ്രാഥമികമായ പൌരാവകാശങ്ങൾപോലും അനുവദിച്ചുകൊടുത്തിട്ടില്ലാത്ത ആളുകൾക്കു് അയത്തു് ആവശ്യമുള്ള പക്ഷം കഴിയും വേഗത്തിൽ അവർ മതവും പേരും മാറിക്കൊള്ളണമെന്നാണു്. മനുഷ്യജീവിതത്തിൽ ഓരോരുത്തർക്കും ന്യായമായുള്ള സ്വാതന്ത്ര്യം ഉണ്ടായിരിക്കണമെന്നും അതിലേക്കായി വേലചെയ്യണമെന്നും തോന്നുന്നതു് സ്വാഭാവികമായിട്ടുള്ളതാണു്. ഹിന്ദുമതത്തിലുൾപ്പെട്ട ഏതാനും ചിലർക്കു് മറ്റുസമുദായങ്ങൾക്കുള്ള സഞ്ചാരസ്വാതന്ത്ര്യംപോലും ഇല്ലെന്നുവരുന്നതായാൽ അതിലേക്കുവേണ്ടി അവർ പേരും മതവും മാറുന്നതിൽ അവരെ ആക്ഷേപിക്കാൻ പാടില്ലാത്തതാണു്. അങ്ങിനെ വരുമ്പോൾ ഹിന്ദുമതത്തിനു് വലുതായദോഷം വരുമെന്നുള്ളതിനു് യാതൊരുസംശയ

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വുമില്ലാത്തതാണ്. മുൻനടപ്പുകളെ ഒരുകാലത്തും ഒരുകാരണവശാലും ഭേദപ്പെടുത്താൻ പാടില്ലെന്ന് ശഠിക്കുന്നവരുടെ അഭിപ്രായത്തെ ഒരുഗവർണ്മെൻറും ബഹുമാനിക്കേണ്ടതാണെന്ന് ലാ മെംബർ പറഞ്ഞിരിക്കുന്നു. മുൻനടപ്പുകളെ ഭേദപ്പെടുത്താൻ പാടില്ലെന്ന് കരുതുന്നപക്ഷം വിദ്യാഭ്യാസത്തിൻറെയും അതിനാലുണ്ടാകുന്നപരിഷ്കാരത്തിൻറെയും ഫലമായികാലാനുസരണമായ യാതൊരുഭേദഗതികൾക്കും വഴിഇല്ലാതെ വരുന്നതാണ്. സാമുദായികമായ സംഗതികളിൽ എല്ലാവരുടേയും ഐകരൂപ്യമായ ഒരുഅഭിപ്രായം ഉണ്ടായതിൽപിന്നീടുമാത്രമേ അതിൽ എന്തെങ്കിലും ഭേദഗതിവരുത്താൻ പാടുള്ളൂ എന്നുവിചാരിക്കുന്നപക്ഷം സാമുദായികമായ യാതൊരു ഭേദഗതിയും ഒരിക്കലും ചെയ്യാൻസാധിക്കുന്നതല്ലാ. ഇതിലേക്ക് എത്രയൊ ദൃഷ്ടാന്തങ്ങൾപറയാവുന്നതാണ്. ഈ പ്രധാനപട്ടണത്തിൽ സ്ഥിതിചെയ്യുന്ന ശ്രീപദ്മനാഭസ്വാമിക്ഷേത്രത്തിൽ നായർസ്ത്രീകൾ മേൽമുണ്ടുക്രടാതെ വിളക്കെടുത്തുകൊണ്ടുപോകണമെന്നുള്ള ഒരു ഏർപ്പാടുണ്ടായിരുന്നതു് പലർക്കും അറിയാവുന്നതാണ്. ഈ ഏർപ്പാട് എൻറെ കുട്ടികാലങ്ങളിൽ കണ്ടപ്പോൾതന്നെ ഏറ്റവും അപമാനകരമായും ജുഗുപ്സാവഹമായും എനിക്കുതോന്നാനിടയായി. സ്ത്രീകളുടെ അഭിമാനത്തെ പുലർത്തിസംരക്ഷിക്കണമെന്ന് വിചാരിക്കുന്നസകല ആളുകൾക്കും ഇങ്ങിനെ അല്ലാതെ തോന്നാൻ നിവൃത്തി ഇല്ലാത്തതാണ്. സ്ത്രീകളുടെ മാറുമറച്ചുനടക്കേണ്ടതാണെന്നു പറയുമ്പോൾ ആയതു് മൻപതിവിന് വിരോധമാണെന്നു് വാദിക്കുന്നവരോട് എന്തുമറുപടിപറയാൻ സാധിക്കുമെന്നറിയുന്നില്ല. മുമ്പു നടന്നുവന്നിരുന്ന ആചാരങ്ങളെ കണ്ണടച്ചു് മുറുകെപിടിച്ചു വാദിക്കയും അതനുസരിച്ചുതന്നെ നടക്കണമെന്ന് സിദ്ധാന്തിക്കയും ചെയ്തിരുന്നു എങ്കിൽ രാജ്യവും അഭിവൃദ്ധിലെജനങ്ങളും ഇന്നത്തെപരിഷ്കൃതനിലയിൽ എത്താൻ ഒരിക്കലും സാധിക്കുന്നതല്ലാ. തെക്കൻ തിരുവിതാംകൂറിലെ നാടാർ സ്ത്രീകൾ ഇന്നും മേൽമുണ്ടുക്രടാതെതന്നെ നടക്കുമായിരുന്നു. ജനങ്ങളിൽ പലർക്കും ഓടിട്ടകെട്ടിടങ്ങളിൽ താമസിക്കാൻ ഇടവരികയില്ലായിരുന്നു. ജനങ്ങളിൽ പലർക്കും സ്വർണ്ണാഭരണങ്ങൾ ഉപയോഗിക്കാൻ ഇടവരികയില്ലായിരുന്നു. അധഃകൃതവർഗ്ഗക്കാർക്ക് കച്ചേരിസ്ഥലങ്ങളിൽ കയറുന്നതിനൊ പബ്ലിക്ക് റോഡുകളിൽ സഞ്ചരിക്കുന്നതിനൊ സാധിക്കയില്ലായിരുന്നു. അവർക്ക് വിദ്യാലയങ്ങളിൽ പ്രവേശിക്കുന്നതിനൊ പഠിക്കുന്നതിനൊ ഇടവരികയില്ലായിരുന്നു. ഭരണകാര്യങ്ങളിൽ അവർക്ക് പ്രവേശിക്കുന്നതിനൊ അതിലേക്കുള്ള അവരുടെ ബുദ്ധിസാമർത്ഥ്യമോ ശേഷിയോ കാണിക്കുന്നതിനൊ ഇടവരികയില്ലായിരുന്നു.

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[Mr. T. Kumara Pillai.]

ലോകത്തിന് ഓരോനിമിഷവും സ്വാഭാവികമായ മാറ്റം ഉണ്ടായിക്കൊണ്ടിരിക്കുന്നു. അങ്ങിനെ ഉണ്ടായിക്കൊണ്ടിരിക്കുന്ന മാറ്റത്തിന് വഴിപ്പെട്ട് നടക്കാൻ കഴികയില്ലെന്ന് വാദിക്കുന്നതിന് അർത്ഥമില്ലാതെ വരുന്നതാണ്. എന്നാൽ ചിലർ അതിന് അനുകൂലിച്ചു നടക്കുകയും മറ്റുള്ളവരെ അതിലേക്ക് അനുവദിക്കാതിരിക്കയും ചെയ്യുന്നത് മനുഷ്യ സ്വഭാവമായി ഗണിക്കാൻ പാടുള്ളതല്ല. ഈ സംഗതിയെ തെളിയിക്കുന്നതിന് പലേ ദൃഷ്ടാന്തങ്ങളും പറയാവുന്നതാണ്. ഹിന്ദുശാസ്ത്രപ്രകാരം ഓരോ സമുദായങ്ങൾക്കും ഓരോ തൊഴിലുകൾ നിശ്ചയിച്ചിട്ടുള്ള വിവരം ഞാനിവിടെ പറഞ്ഞറിയിക്കേണ്ട ആവശ്യമില്ലാത്തതാണ്. ലോകത്തിന് സ്വാഭാവികമായി ഉണ്ടായിക്കൊണ്ടിരിക്കുന്ന മാറ്റങ്ങൾക്കും അതിന് യോജിപ്പായി വന്നുകൊണ്ടിരിക്കുന്ന പരിഷ്കാരങ്ങൾക്കും അവയിൽ ചില സമുദായങ്ങൾ വഴിപ്പെട്ടും അനുകരിച്ചും നടക്കുന്നു. അവക്ക് ശാസ്ത്രീയമായി വിധിച്ചിട്ടുള്ള ജോലികളിൽനിന്നും വ്യതിചലിച്ചിട്ട് കാലാനുസരണമായ പലേ തൊഴിലുകളും പരിഷ്കാരങ്ങളും സ്വീകരിച്ചു കഴിഞ്ഞിരിക്കുന്നു. ആ സ്ഥിതിയിൽ അധഃകൃതവർഗ്ഗക്കാക്ക് ന്യായമായ പൌരാവകാശങ്ങൾ കൊടുക്കാതേയും അവരുടെ സാമുദായിക പരിഷ്കാരങ്ങൾക്കു ധ്രുതിവയ്ക്കേണ്ട ആവശ്യമില്ലെന്നു പറയുന്നതും ഒരിക്കലും ന്യായമായി കരുതാവുന്നതല്ല. ഏതു ശാസ്ത്രപ്രകാരം ഏതു നടപ്പിനെ ആധാരമാക്കി അധഃകൃതവർഗ്ഗക്കാക്ക് എതിരായി വാദിക്കുന്നുവോ അതേശാസ്ത്രവും അതേ നടപ്പും അനുസരിച്ച് എല്ലാ സമുദായങ്ങളും ഒരുപോലെ ആചരിച്ചു പോന്നിരുന്നു എങ്കിൽ അധഃകൃതവർഗ്ഗക്കാരുടെ ഉന്നതിയിൽ അവരെ തടയുന്നത് ന്യായമായി കരുതാമായിരുന്നു. ഇന്നത്തെ സ്ഥിതി അങ്ങിനെ അല്ലാ കാണുന്നത്. ഞാൻ പറയുന്നതുപോലെ നിങ്ങൾ ചെയ്തുകൊള്ളുക അല്ലാതെ ഞാൻ ചെയ്യുന്നതുപോലെ നിങ്ങൾ പ്രവൃത്തിക്കരുത് പാടില്ലെന്നു ശഠിക്കുന്നതായ തത്വം ദൈവനീതിക്ക് ഒരിക്കലും യോജിക്കുന്നതല്ലാ. ഓരോരുത്തരുടേയും പൌരാവകാശത്തെ തടുത്തുനിർത്തുവാൻ നിവൃത്തി ഇല്ലാതെ വന്നിരിക്കുന്ന ഈ കാലത്തു് അതിലേക്ക് ശ്രമിക്കേണ്ട ആവശ്യമില്ലാത്തതാണ്.

ആരോ ഒരാൾ എന്തോ കാരണവശാൽ നിർമ്മിച്ചിട്ടുള്ള "തീണ്ടൽ, തൊടീൽ" എന്നുള്ള വാക്കുകളെ ഇന്നത്തെ നിഘണ്ടുവിൽനിന്നും നീക്കിക്കളയേണ്ട കാലം അതിക്രമിച്ചിരിക്കുന്നു എന്നാണ് ഞാൻ വിചാരിക്കുന്നത്. എന്റെ സ്നേഹിതൻ മിസ്റ്റർ കുമാരൻ എന്റെ അടുത്ത ക

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സേരയിലാണ് ഇരിക്കുന്നത്. കാലത്ത് പതിനൊന്നുമണിമുതൽ വൈകുന്നേരം അഞ്ചുമണിവരെ ഞങ്ങൾ തോളോടുതോൾ ഉരുമിക്കൊണ്ടിരിക്കുന്നു. ഇതിനിടയ്ക്ക് കാപ്പികുടിക്കാനായി പോകുമ്പോൾ ശുദ്ധം മാറിപ്പോയതായി ഞാൻ വിചാരിക്കയൊ കുളിക്കണമെന്ന് എനിക്ക് തോന്നുകയൊ ചെയ്തിട്ടില്ലാ. മുക്കാൽ മണിക്കൂർ സമയത്തിനുള്ളിൽ കുളിയും കാപ്പികുടിയും കഴിഞ്ഞ് എന്റെ മറ്റു സ്നേഹിതന്മാർ മടങ്ങി എത്തുന്നതായും ഞാൻ വിചാരിക്കുന്നില്ലാ. സ്വാഭാവികമായ ലോകഗതിയാലും വിദ്യാഭ്യാസത്തിന്റെ പ്രചരണത്താലും ഈനിലയെ പ്രാപിച്ചിട്ടുള്ള ഈ കാലത്ത് ടെണ്ടൻഹാളിന്റെ വെളിയിൽ ഇറങ്ങിയാൽ എന്നെതൊടാൻ പാടില്ലെന്ന് മിസ്റ്റർ കുമാരനോട് പറയുന്നതും സവർണ്ണഹിന്ദുക്കളോടൊപ്പം ഇതരസമുദായങ്ങൾക്ക് നടക്കാൻ അവകാശമുള്ളതുമായ റോഡിൽക്കൂടെ മിസ്റ്റർ കുമാരനു നടക്കാൻ പാടില്ലെന്നു പറയുന്നതും എന്തുയുക്തിയെ അടിസ്ഥാനപ്പെടുത്തീട്ടാണെന്നു എനിക്കു മനസ്സിലാകുന്നില്ലാ. തെക്കൻ തിരുവിതാംകൂറിലുള്ള പലേ ഹിന്ദു നാടാന്മാരേയും എനിക്കു അടുത്തു അറിയാൻ ഇടയായിട്ടുണ്ടു. അവരിൽ പലരും ഏറ്റവും ശുചി ഉള്ളവരായും ഈശ്വരഭക്തന്മാരായും ഞാൻ കണ്ടിട്ടുണ്ട്. അവർക്കും മറ്റു സമുദായാംഗങ്ങൾക്കും നടക്കാൻ സ്വാതന്ത്ര്യമുള്ള റോഡിൽ ഇവരെ വിലക്കുകയാണ് ചെയ്തിട്ടുള്ളതു്. ഈ നടപ്പ് അനീതിയും കഷ്ടവുമാണെന്ന് പറയാതിരിക്കാൻ നിവൃത്തി ഇല്ലാ. ഈ കാരണങ്ങളാൽ എന്റെ മാന്യസ്നേഹിതൻ മിസ്റ്റർ എൻ. കുമാരൻ അവതരിപ്പിച്ചിട്ടുള്ള പ്രമേയത്തെ ഞാൻ ശക്തിയോടുകൂടി അനുകൂലിക്കുന്നു.

Mr. K. DOMINIC TOMMAN (*Devicolam* cum *Peermade*): Sir I support the resolution moved by Mr. Kumaran.—viz.,

"that all roads round the Vaikam temple and all other roads similarly situated in Travancore be thrown open to all classes of His Highness the Maha Raja's subjects without distinction of caste or creed."

17 lakhs out of a total population of 40 lakhs comprise the untouchable classes in Travancore. Such a large mass of people in Travancore are denied the elementary rights of citizenship, even such as the use of certain roads opened and maintained by public funds.

It is said that the use of certain public roads in Travancore is not allowed to the untouchable classes owing to the objections raised by caste-Hindus. Whenever, in the past, the Government wanted to help the untouchable classes in the amelioration of their social condition, some caste-Hindus as a general rule made every objection possible, but when they found that the Government was firm in its attitude they quietly yielded.

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In this particular matter, a very large number of caste-Hindus are in favour of throwing open all roads opened and maintained by public funds to all classes of His Highness the Maha Rajah's subjects without distinction of caste or creed. So, the position of Government in this matter is not so strong as it was, when it went to the help of the untouchable classes in the past, in spite of the strong opposition of the caste-Hindus. From the first session of the Popular Assembly onwards, the untouchable classes have been pressing their claims on the Government for the removal of the various disabilities under which they suffered. The Government do not seem to have done anything in the matter, since the time of Dewan Sir P. Rajagopalachari.

It has to be admitted that social tyranny of the worst type is perpetuated on the untouchable classes. We charge the white colonists of South Africa and other British Dominions with class and colour prejudice. And we are in reply told by them that caste-ridden India has no ground of complaint against political inequality or social segregation.

The late Mr. Ranade has often said that the moral weight of India's demand for equality of status in the Dominions will be abnormally enhanced and the force of our outcry will be made irresistible if we only try to put our house in order. By removing the disabilities of our brethren here, we shall be indirectly helping the whole of India and the Indians in the other parts of the world. If evolution in the uplift of the suppressed classes is slow, we may, in all probability, find ourselves sooner or later confronted by a powerful organisation of men which will have recourse to revolution perhaps of a bloody nature. The feeling is running high against all social injustice and no power can stem the progress of communities in this age of democracy. When all possible methods of peaceful agitation are exhausted, we may see the suppressed classes resorting to violence to redeem themselves from their disabilities.

Practical statesmanship should leave no stone unturned to effect a sudden reform and remove the disabilities under which 17 lakhs of our fellow subjects in Travancore labour, without the least possible delay. For these reasons, I support the resolution.

MR. K. PARAMESVARAN PILLAI *(Tiruvalla)*: Sir, I need not tell the House that I rise to support this motion. Mr. Subba Aiyar in opposing the motion began by saying that the real object of this movement is not to get admission to the roads, but temple entry. Mr. Subba Aiyar knows that it has been in season and out of season asserted by very responsible men that the object is not temple entry, but the establishment of the elementary right of using this public road. Nevertheless, Mr. Subba Aiyar is not prepared to believe them. He wants to assert that the object is otherwise. Mr. Subba Aiyar knows as a lawyer that the theory of the real object of the prayer has been long exploded. At one time the High Court held that, if a man brought a suit with a particular prayer, if his real object was something else, that real

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object must be enquired into and court fees paid upon that claim before the ostensible prayer is granted. That matter was referred to a Full Bench and they held that the real object need not be enquired into at all, because it would be very difficult to pry into the thoughts of men. They said that all that they were concerned with was the ostensible prayer. If the ostensible claim is right, the party would get his claim satisfied. If not, his claim would be dismissed. Therefore, it appears to me, that it is quite beside the point to enquire into the motives or the distant objects of persons who have brought forward their claims. All that we are now concerned with is the question whether the claim now brought forward is well-founded or ill-founded. If it is well-founded, this house will admit it. If not, it will be rejected. Let us not go further and enquire into the motives of men, especially when it is quite unnecessary. Assuming for the moment that the real object is something else, temple entry, will that in any way justify the Government in declining to grant the prayer that we are now asking for? Now, let us take a concrete case. To attend the meeting of the Legislative Council, every member of the public should obtain a ticket of admission to this hall. Let us suppose that a certain gentleman takes it into his head to force admission into the hall without a ticket and starts with that object from the *Puthen Cutcherry*. Now, will Government be justified in stopping him on the road round the Jubilee Hall, on the simple ground that they know his wrongful object. They will certainly be justified in stopping him at the gate. He should not be denied the right of using the roads round the Jubilee Hall simply because he started from his house with the intention of obtaining admission into the hall without a ticket. I am sure Mr. Subba Aiyar did not intend to make use of that argument seriously. Probably his position is that, since this is a question closely connected with religion, Government should not interfere in the matter. Now, Sir, in answer to that, my contention is that there is absolutely no religious question involved in this matter. It is purely a social matter, so far as I can see. I have consulted a very eminent authority on Hindu religion and he told me that these social institutions are peculiar in different countries and with different people, and that they have absolutely nothing to do with Hindu religion. In illustration of that position, he told me a story. I hope my Hindu friends will allow me to relate that story. He told me that in Kashmir, in every Brahmin house, whenever a Sraddha is performed, a cat should be kept hidden under a basket all the time the Sraddha is being performed. It seems, even if one does not own a cat, he should borrow one from his neighbour and hide it under the basket. That great authority whom I referred to also traced the history of the origin of this custom. He said, that probably, since cats were in plenty in Kashmir and since they might eat away and pollute the *pinda*, they had to be hidden in olden days. What was once a necessity is now being stupidly followed as a religious observance. It appears to me that the so-called social institutions are something like this. These have nothing to do with

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Hindu religion. If a particular custom deserves to be called a religious observance having the force of law, it should be universally observed in all places where Hinduism is accepted or followed. We know, as a matter of fact, that is not so. In Benares, for example—I have gone to the Visvanath Temple at Benares—every Hindu, irrespective of caste, is allowed freely to worship the deity and even perform *Abhishekam*. It is therefore clear that these customs are not at all uniform in all places where the Hindu religion is observed. Therefore, it is wrong to contend that these have anything to do with Hindu religion. As a matter of fact, these are purely social customs. They have nothing to do with Hindu religion. If we go to the extent of calling this a religious question, I do not think there is anything done by the Hindus which does not deserve to be called a religious question. Let us be reasonable in distinguishing what is purely social from what is purely religious. There is no use therefore in coupling social matters with religious matters.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I ask Mr. Paramesvaran Pillai whether worshipping in temples is not one of the accepted methods of following Hindu religion?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): The question does not arise.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Whether it arises or not, it is for the President to decide and not for a member.

PRESIDENT: He does not propose to answer.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That is all right; I can understand that.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Coming to the legal aspect of the question pressed by my learned friend Mr. Subba Aiyar, it has been urged by him that there is a distinction between King's highways and what are known as *gramaveethies*, that these *gramaveethies*, though public roads in one sense, may not be open to all classes of people and that the notification of Government refers only to public highways as such and not to *gramaveethies*. Now, this contention, I submit, is not based either upon the original notification itself or upon the subsequent judicial pronouncements upon the subject. The notification says—I am reading it from Mr. Kumaran's speech—

"There being reason to believe that Pulayas and other humbler classes of the population still find difficulty in getting free access to the public courts and cutcherries and are not unfrequently obstructed in the use of the public highways and markets, His Highness' Government deem it necessary to call the attention of all public officers to an order issued from the Huzur on the subject on the 26th Panguni, 1045, and to impress upon all concerned that the courts and cutcherries of the State and all public roads and market places are open alike to all classes of His Highness' subjects without distinction of creed or caste, and that no man shall be allowed to hinder another from the free use

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of them on any ground whatsoever, such hindrance being an unjustifiable interference with the liberty of the subject and calculated to defeat the impartial administration of justice. Any public officer who may be found to deny free access to himself on business to any section of the population and who may not personally receive or hear petitions from any person or conduct investigations into cases in the presence and within the hearing of the parties concerned on the ground that such persons are of low caste, will be visited with the severest displeasure of Government."

Now, the expressions used in this notification are public streets and public roads and the two expressions are indiscriminately used and therefore the notification is intended to make no distinction whatsoever between public streets, nor is any distinction drawn between public roads and *gramaveethies* as such. So, there is absolutely no foundation for the contention that Government intended the original notification to apply to public roads as such.

Now, let us come to the judicial pronouncements by the High Court. Of course, the High Court had ruled as a matter of fact that the original notification of Government intended to apply only to certain public roads and not to all roads, that there was a distinction between public roads and *gramaveethies*, and that public roads were open to all classes while the *gramaveethies* were not. As a lawyer, I am bound to follow that ruling and I bow to it. But, I submit, there is no such ruling on this matter. Mr. Subba Aiyar has contended that in 5 T. L. R. there is a ruling which interprets this notification and makes a distinction between public roads and *gramaveethies*. Now what happened in 5 T. L. R. was this. The road was a public road and it was being used by all classes of people. The dispute was between the Jews and the Romo-Syrians. It was a street inhabited exclusively by the Jews on one side. The Romo-Syrians were walking on the roads for ordinary purpose. But they asserted their right to take a religious procession through the street to the annoyance of the Jews, the inhabitants of the street. Their Honours of the High Court held in that case that the road could be used for all ordinary purposes. While admitting the use of the road for ordinary purposes, they said that it may not be used for carrying on religious processions, because such processions were likely to wound the religious susceptibilities of the inhabitants of the street. I shall now refer to the questions referred to the Full Bench. They are :

"(1) Whether according to law, or usage having the force of law in this State every public road is open to the public for all purposes not forbidden by law.

"(2) Whether the distinction between what is called the common highway or thoroughfare and King's highway obtains in this State and whether the general law of the land sanctions the placing of any restrictions upon the right of the public to carry religious processions of any sections through or along a thoroughfare.

"(3) What are the restrictions sanctioned by custom, if any, to the use of a thoroughfare for the purpose of religious processions."

So, the questions that arose for decision in that case were merely whether a distinction, *for the purpose of religious processions*, had to be drawn between public highway and *gramaveethi*, whether there was a local usage or custom of the country sanctioning any such distinction, and, if so, whether the Court should recognise that. Those

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were the only questions in that case, and their Honours held that the roads then in question should not be used for *all* purposes, especially in the case of religious processions which ordinarily wound the religious susceptibilities of the people. All the other statements in the judgment are entirely *obiter dicta*, and Mr. Hoogewerf who contended that they were *obiter dicta* was perfectly correct and he is well supported by the decision in the case. The question whether the distinction between King's highway and *gramaveethi* existed for the purposes of all classes being admitted into the street then in question, did not arise for decision in that case and it was not decided in that case. Now, that is the basis of the whole argument.

Now, coming to the cases in which this decision has been held to be valid, the next case is 10 T. L. R. Appendix, p. 31. Well, Sir, the facts of this case were very simple. A certain Captain of the Salvation Army rode through a Vellala street with certain Pulaya converts. It was objected to by the inhabitants of the street and a quarrel ensued in some *fields* in the village, and *not in any street*—that is a very important point to be noted. A riot ensued and certain persons received injuries. The Salvationist complained to the Magistrate who convicted the accuseds for riot, unlawful restraint and assault. The accuseds put in a Revision Petition. The High Court said that they could not be convicted for rioting, because the common object of rioting was not proved and because in all cases of quarrel it is natural for a crowd to assemble although many in the crowd may not have the common object of rioting. The conclusive proof of common object of all the rioters is absolutely essential and therefore the conviction for rioting was thrown out. The conviction for assault was upheld, because there was enough proof for that.

I will read portions of the judgment which are relevant to the present discussion :

"The facts of the case are very simple. The prosecutor, an adjutant in the Salvation Army, who was going on horse-back followed by a number of Pariahs on foot at 10 o' clock on the night of 27th August last from one Paracheri (Kandenkulicheri) to another (Elippayadicheri), entered on his way into a street in Cheramadam village inhabited wholly by Vellalars. Just, then, one of the villagers of that street came forward and said to him, 'You should not go by this way'. The complainant, without minding the objection, passed through the street, when seven or eight more of the Vellalars of the street protested against his doing so. He proceeded further and, on coming to the end of the street, rode into the paddy fields when a crowd of people ran up to him, and, it is alleged, assaulted him by stopping his horse and threatening to beat him and his horse with a stick.

The other relevant portions are :

"The assault alleged seems to have occurred not in the street but in the paddy fields through which the complainant on horse-back with a number of followers attempted to pass. The owners of the fields had a right to object to such a course. Whether there was crop on the lands or not does not appear ; but seeing that the occurrence was in August, it is not unlikely that there was crop on them. However, the complainant had no business to ride through paddy fields in the possession of the villagers with a party following him.

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"With the above observations, we come to consider the offences of which the prisoners have been convicted. Firstly, "rioting" under section 147. To constitute this offence, the assailants must have had a common object in assembling and in furtherance of that object, must have used violence. Here, it must be borne in mind that the novelty of the scene itself would attract a crowd. A Salvationist (European) on horseback with a number of Pariahs, proceeding as it were in a procession through the street at 10 o' clock on a dark night (as the prosecution witnesses themselves admit) in an out of the way village, is certainly a sight which would attract people about them. The novelty did not end here. The procession went into the paddy fields. There could have been in the present instance no pre-arrangement among the people. Suddenly they all came together from different houses and places without the slightest notice or pre-arrangement. There was, and could have been, no concerted plan of action. Each one came there of his own accord drawn by curiosity and said or did something without reference to the other. It is not clear from the evidence that anybody used violence, for the complainant whose evidence alone could be accepted as unimpeachable in the case, is unable to identify anybody except the 1st prisoner who waved a stick, and the 5th prisoner who was saying something in the crowd which he (complainant) did not understand. The evidence of the other witnesses is extremely untrustworthy and is not apparently believed wholly by the Magistrates themselves. We therefore think the conviction for rioting cannot be sustained; and it is accordingly set aside.

"Next is the conviction for wrongful restraint. To uphold this conviction, it must be found as a fact that the complainant and his followers had a right to proceed through the Vellala street and the paddy fields. That right is an essential ingredient of the offence. As we have already observed, there is no distinct finding by the Magistrate that the path was one open to the class of people to which the complainant and his followers belong. The conviction, therefore, for wrongful restraint should also be set aside, and is accordingly set aside.

"There remains then only the conviction for assault under section 352. We think the 1st prisoner is guilty of that offence. As regards the other prisoners, the evidence is nearly the same as against the 8th prisoner who has been acquitted by the District Magistrate. The complainant says nothing against these prisoners. It is, indeed, very unlikely that he would not have identified the 6th and 7th prisoners if really they caught hold of the reins and the horse, as the prosecution 5th and 6th witnesses swear. The latter witness has been disbelieved by the District Magistrate himself as against the 8th prisoner. In these circumstances, we are obliged to uphold the conviction of the 1st prisoner alone for assault and set it aside as against the others."

Now that is the decision in X, T. L. R. case. That does not afford any support to the position taken by Government.

Mr. Subba Aiyar then referred to the V., T. L. R. case. I do not want to take up the time of the Council by reading it. That case had nothing to do with a public road. That related to a road in a private land and the question was whether the procession could be obstructed or not. Everybody would say that he could not. Therefore I say the observations in V., T. L. R. which are the sheet anchor of my friend, have absolutely no force here because they are purely *obiter dicta*. Nor did their Honors intend to decide that question. Neither the notification nor that case affords any protection to my friend.

Now, coming to the Vaikam roads, my friend would not say whether it is a *gramavithi* or whether it belongs to the temple. That is a crucial point about which I put a question to him. I asked whether the Devaswom Commissioner would be entitled to order the closing of the road to those who are using it. Now if he is entitled to close it, the Devaswom has a right over it. My friend did not give an answer,

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[Mr. V. Subba Aiyar.]

Speaking on behalf of Government, he was very unfair to this House in not saying whether the roads are in the ownership of the Devaswom Department or not. Of course, my learned friend said that it is a part of the survey number within which the temple stands. Now, I submit, Sir, much water has flown under the bridge since these roads formed part of the temple premises. No man remembers that now. Now there is a huge wall enclosing and separating the temple premises from these roads. It cannot be said therefore that these roads form a part of the temple premises. If they formed part of the temple premises, certainly Christians and Mahomedans would not be permitted to pass along them. It is for this reason that the roads are being cleaned and lighted by the Municipality. Not only are they being cleaned and lighted by the Municipality, but the member for Vaikam represented in the S. M. P. A. in the last session that the Devaswom Department should bear a portion of the cost of cleaning these roads. The Devaswom Commissioner stoutly objected—and I think very rightly—to any portion of the public funds being diverted for a lay purpose and I congratulate the Devaswom Commissioner on his decision. This was the representation made by the member:

"The member next pointed out that the major portion of the time of the municipal sweepers was taken up with the sweeping of the surroundings of the temple and with the removal of filth etc., that accumulated on the eastern end at Arakuttypuram. He stated that not less than a sum of Rs. 200 was being spent on that account by the Municipal Council which was an unnecessary drain on the Council fund. He therefore submitted that it was but reasonable that the Devaswom Department should meet the expenditure from its fund or at least undertake the removal of the filth of the temple now thrown out into the street into some distant and unobjectionable place. He requested that either of these courses might be adopted by the Devaswom Department".

The Dewan's reply is:

"You next suggested that the Devaswom Department should bear the charges incurred by your Council in keeping the surroundings of the temple in a sanitary condition. The Devaswom Commissioner says that he does not agree with you and that his department need not incur the expenditure".

Quite right.

"He points out that the Municipal Council levies fees for sheds put up on the road leading from the temple and that the Municipal Council should attend to the sanitation of the road. He also points out that this is the practice in other places. I think that what the Devaswom Commissioner says is right, and that you will have to conserve the immediate neighbourhood of the temple and see to its proper sanitation."

Now, therefore, this is a road which is being cleaned and lighted by the Municipality and the Devaswom Commissioner has denied his liability of cleaning any portion of this road. If that is so, I say that the facts that these roads are under the charge of the Municipality and that the Municipal funds are used for the purposes of maintaining them *prima facie* give rise to the presumption that these roads are public roads. In the present case, Government observe—

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask under what section of the Municipal Regulation contributions are claimed by the Municipal authorities?

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MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I cannot point out off-hand the section of the Municipal Regulation. But they have to do it.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask whether there is any road within a Municipality in British India which is not vested in a Municipality?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): It is too broad a question. I am not in a position to answer. Although it may be that these roads are maintained by the Public Works Department, Mr. Subba Aiyar would have absolutely no objection in contending that that was also a mistake, just as much as they marked the trees by a mistake. Any inference can be drawn from the fact. If the road is being maintained, cleaned and lighted by the Municipality, he would say that that again would not make the road a public road. If I say the property belongs to Government, even then that would not make it a public road. What makes it a public road is, he would say, that every member of the public without any restriction should be entitled to use it. Here I would say my friend is begging the question. Every member is not using it and therefore it is not a public road. That is an argument which I did not expect from my learned friend. Even if it formed at one time part of the premises of the temple, it has ceased to be so. It was being used as a public road for a long time past and it was being used by a section of the people. The ownership of the road now vests with the Government. The road is being cleaned by the Government and that makes it therefore a public road. I would begin by saying that it is a public road and not begin the other way, that every member is not using it and therefore it is not a public road. That is not logic. Now, therefore, this is a public road. If every member of the public is not using it, I would ask the Government to refer to their notification of 1884 saying that every officer who disobeys that order will be visited with the severest displeasure of Government. The only argument of my learned friend is that if it is a public road it is to be used by the public. But owing to the custom prevailing in the place it is not proper that Government should interfere with that custom and allow all classes of people who are not using it to use it. That is a reasonable position to take. With respect to that, I say Government ought not to make a distinction. In this particular matter, the Government have been holding the religious susceptibilities of the people. Every cutcherry is open to all classes of His Highness' subjects and access to these cutcherries cannot be obtained without going through these roads. Is it not the duty of the Government to maintain and protect the rights of the public? I am asking the Government the question. My friend has been basing himself upon an ante-deluvian judgment. Much water has flown since then.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask my friend why he has not the boldness to go to a civil court and get that revised?

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): It is not my duty. I have a right to ask the Government to protect my right. All

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that I ask the Government to do is to carry out what they have laid down in the notification, that if any person infringes upon the right of the public, then to visit him with their severest displeasure. I also say that it is only an *obiter dictum* that was laid down in the cases referred to by my friend. It is after all only an interpretation of the notification. Government must say whether they intended to include in it all manner of public roads. If the High Court have put a wrong interpretation, it is for the Government to come and say, "Very well, our notification includes all public roads as highways." The Government have not done that. Therefore I ask the Government to interpret their notification properly, liberally and in the light of modern sentiment and modern ideals. This High Court judgment in question was passed 30 years ago when the feelings were not far advanced, when we were not spending more than five lakhs on education. It has now increased to thirty-five lakhs. Am I to understand that Government have been wasting the money if it is not able to create a public idea in this matter? I am not prepared to agree with my friend that this money has been wasted. But I think public ideas have been changed and they are very perverse people who do not really believe in religious sentiments, who say that these roads should not be thrown open to all classes of people. All that I request Government is to carry out the notification of 1884.

MR. A. HOOGEWERF (*Nominated*): Sir, I stand here as a Christian member of this Council to support this resolution. I consider it a holy cause. The principles of my religion are based upon the fatherhood of God and the brotherhood of man. I was so glad to see that a minister of my Church stood up to second the resolution, and I was so glad also to see members of the high caste rising one after another and strongly supporting the cause of the unapproachable and untouchable. I was proud to hear the speech of my friend Mr. K. Paramesvaran Pillai who knocked the bottom out of the argument of the question of temple entry of the Law Member. It is unfortunate that the motion that I stand here to support is called by its enemies as the *satyagraha* motion, as if it has anything to do with *satyagraha*. Their idea is only to create prejudice by combining a most innocent claim with a form of agitation not popular amongst some people in Travancore. Let us not cloud the issue or shrink at looking the problem full in the face. What do the unfortunate Hindu subjects of the State numbering about half the population claim? Mere right to walk along public roads! There has been a great deal of hair-splitting on this simple problem. So much has been spoken about Sanketam, although the roads in question have been proved beyond the shadow of a doubt to be public roads by my learned friend, Mr. P. K. Narayana Pillai. There is no law prohibiting Ezhavas and others acquiring house-sites or shops by the side of the road. If an Ezhava does so, who can prevent him from using the road through which the former occupants had a right of way? Does not the purchaser acquire the right of way also with tenement? It is not easy for us, Christians and Mahomedans, to

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understand how our Hindu friends deny the right of access which they extend to us, to their own brethren of the fold. I hope it is not political importance that weighs in giving the preferential treatment. We have no objection to beef-eating which is so obnoxious to Hindu orthodoxy. But many of the backward communities, including the Ezhavas, have as much objection to beef-eating as caste Hindus, and yet they are denied the right of access which we enjoy. A caste Hindu, Christian or Mahomedan leper, or even the mangy dog or the pig of the Ezhava, Pariah or Pulaya, wallowing in mud and filth may walk along the roads in question with impunity. Why not the dog's or the pig's owner who is a human being made in the image of God, have the same privilege in this land of Sankara who preached the gospel of Vedantic philosophy which is sacred to every Hindu? I am told that, according to that great teacher, the soul of every being in creation is identical with that of every other. What a noble conception—grander and higher than the ideal of brotherhood-is the ideal of identity or oneness! I feel it an irony that in the land where such high philosophy was taught, so much of special pleading is required for the due recognition of even man's elementary rights. To the western mind, that a man can be excluded from a road on account of his birth is so iniquitous that it is almost unthinkable. Here we are daily practising it without any feeling of shame. Is it not time enough to remove this standing stigma? It is reported that Sir Rajagopalachari told a member of this Council that Travancore was stinking in the nostrils of the people in England, and that he was feeling ashamed. Whether we approve of *satyagraha* or not, started as it is for removing a disability so patent, it is attracting the attention of all India. It is a dangerous weapon with which to attack Government, but we shall ourselves be responsible for inaugurating, strengthening and popularising the movement, if we resist and continue to resist a claim of right, the justice of which must be obvious to all. After the deputation headed by our friend Mr. Changanachery Paramesvaran Pillai waited on the Dewan after the famous conjoint session of the Nayar-Ezhava conferences and after the *Jatha* of caste Hindus underwent the penance of walking barefooted from north and south Travancore to Trivandrum and represented their grievances to the Sovereign, it cannot for a moment be said that the unconstitutional methods adopted for attaining the end prevent us from granting the prayer. The way has been made clear for the Government—there is no embarrassment. If we still persist in declining to grant the right, it will be put down to perversity due to age-long and unreasonable superstition. Respect for custom is the by-word of the reactionary party. But have we been respecting custom where it was found to be unreasonable? *Sati* and slavery would not have been abolished, if respect for custom prevailed, despite its being unreasonable and inhuman. If we throw open the Vaikam roads to-day against custom, it will not be the first time that Travancore breaks through its trammels. The Government did it about half a century ago, without any agitation from the people concerned, without monster meetings and *jathas* of caste Hindus

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[Mr. T. Lakshmana Pillai.]

and without the support of a verdict of a People's Council. There is no objection to the admission of the Ezhava, the Pulaya or the Pariah to the Assembly and the Council. They sit side by side with the high caste Nambudiri and us in our deliberations. Are the Vaikam roads and roads similarly situated more sacred than the Assembly and the Council. Let alone all considerations of high principle, is it expedient for the Government to cling to a superstition which the people have demonstrated that they are mature enough to cast off? The masses have become awakened to their rights. The Government have been responsible for spreading elementary education which caused the awakening. Will it be wisdom or far-sightedness to stop short and stifle aspirations which the Government themselves have been responsible for fostering? Blind autocracy clinging to the privileges of a section of the people, disregarding the right of the masses, will be seen to have precipitated every revolution in the history of the world. Let us not drive peaceful confusion which we shall have to regret in vain, when too late. Now the masses are claiming their rights in a peaceful and absolutely non-violent manner. If we wait longer, the claim is bound to assume more aggressive forms. Let us not dabble in legal quibbles until the masses wrest from our hands their birth-right which we would not voluntarily concede with a grace. When Her Highness the Maha Rani Regent referred to the decision of this Council in her reply to the *jatha*, every one expected that the Government would, at least, declare its neutrality and allow the members on the other side of this House freedom to vote as they chose. An open announcement to that effect would have created the assurance that the Government was not taking sides. The Government need not have taken the opprobrium of a possible adverse decision, if they had made the expected announcement, and the decision of the Council would have been treated as a safe index of the opinion of the people. As it is, a small dissentient minority may turn the balance although the large majority of the people's representatives may be on the side of the poor and the depressed. So, after all, it is the Government itself that will be deciding the matter, if there is the least difference between the popular representatives. Let us, non-official members, therefore, vote as one man, to save the good name of our Queen and country. Let us do so for justice and righteousness, for Humanity and Religion. Let us unite, at least, for this holy cause. Beware the whole of India, nay the whole world, will sit in judgment over us, the moment our decision is announced. The news will be flashed even across the seas. Let us set an example to the whole of India and do away with this inhuman custom for all time.

MR. T. LAKSHMANA PILLAI (*Nominated*): Sir, the question before us is mainly of a social or rather, of a socio-religious character and to some extent bears upon civic rights. A remedy is sought by an aggrieved section of the people for a social evil or disability under which it has been groaning for ages. The evil, in my humble opinion, is a real

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one, as it concerns the elementary right of human beings to pass through what have every appearance of being and to a large extent been treated as public thoroughfares. In these enlightened and progressive days, there can be no two opinions as to what course social reform should take in future in this matter. The educated and enlightened section of the people, with few exceptions, will feel strong sympathy for the legitimate aspirations of a class of people that have been long kept down, by the force of immemorial custom probably for no fault of its own, and excluded from rights and privileges ordinarily enjoyed in this country by caste Hindus and even by the followers of other religions. From the standpoint of abstract justice, I have no hesitation in saying that all public roads should be thrown open to all classes of Her Highness the Maharani's subjects. As long as a single copper cash received from the members of the depressed classes by way of tax has been utilised for the construction or maintenance of public roads, it does not seem to stand to reason why the members of these classes should be denied the benefit of using these roads. Lastly, as a humanitarian, I believe in the brotherhood of man and in the humanising power of love and kindness which are the qualities to be shown to every human being and particularly by the progressive classes towards their less progressive brethren; and I do not believe in unnecessary exclusion of any kind.

The strongest argument which can be brought forward and which has been brought forward against granting this elementary civic right of the depressed classes, is the existence of a long-standing adverse custom and the need for respecting the social and religious sentiments of certain sections of caste Hindus which have been trained to flow for reasons unknown through a particular pre-determined channel. The mere continuance of a custom however long-standing, cannot in itself be an argument in favour of its intrinsic worth or soundness. I can easily prove this statement by a reference to the horrible customs of *Sati*, of slavery and of Thuggee which have all been totally abolished by the strong hand of Government despite their unmolested continuance for ages. The custom in question may not be so heinous as those mentioned. When a custom is once known to be intrinsically deleterious or unnecessarily offensive to any class of people, means should be sought to abolish it at the earliest possible opportunity and with the least possible trouble. This obligation is created by the very education which has enabled us to understand the deleterious nature of that custom.

But though I am in entire sympathy with the aspirations of the depressed classes, and feel desirous that they should be freed from the clutches of an unjust disability, I feel bound to state, in all conscience, that I doubt whether the method by which relief is now sought to be obtained is the proper one. If the road in question is not in the opinion of Government a public road, then the evil is a socio-religious one, and requires the application of a socio-religious remedy. To seek a political solution for a socio-religious problem would, I submit, be a fundamental mistake. I feel that the real remedy lies in doing socio-religious propagandist work among those sections of the people from whom the

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[Mr. A. Hoogewerf.]

greatest opposition to the reform comes. It lies in bearding the lion, as it were, in his own den.

MR. A. HOOGEWERF (*Nominated*): What about the notice boards?

MR. T. LAKSHMANA PILLAI (*Nominated*): It is a question of minor detail which I do not think I should answer. The Government in one sense is only an arm of the people though a powerful one, attending to the needs of the body politic and it can only reflect the condition of the people from time to time. Its actions are slow.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know if the abolition of *Sati* was not a political step?

MR. T. LAKSHMANA PILLAI (*Nominated*): I have already stated that the heinousness of those customs demanded immediate action on the part of the Government. It usually acts only under the prompting of serious contingencies. It is bound not to offend any section of the people. Now, there is a large volume of inertia and of adverse sentiment among a respectable class of orthodox Hindus in and about Vaikam that has to be combated and removed. For its removal the opponents have to be met and talked to in a spirit of conciliation in their own places.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): Suppose it has been tried and it has failed?

MR. T. LAKSHMANA PILLAI (*Nominated*): I have not done with the entire portion of my argument. All this is social work. To bring a resolution in this Council before this preliminary spade work is done is not, in my humble opinion, a correct procedure.

MR. A. HOOGEWERF (*Nominated*): How did you find it out, please?

MR. T. LAKSHMANA PILLAI (*Nominated*): From their publications. If a deputation of some respectable Hindu gentlemen would travel to Vaikam and the outlying places, meet the orthodox people in their homes and confer with them, the opposition can, I believe, be overcome without much difficulty.—

MR. N. KUMARAN (*Nominated*): What about the opposition of Government?

MR. T. LAKSHMANA PILLAI (*Nominated*): I have not finished my sentence. The work must be somewhat easy especially now that thought has been stimulated in this matter for the past several months. I myself had the opportunity to talk to one or two principal men of the opposition and was much gratified to find that I was able to convert them to my view without much difficulty and in an astonishingly short time.

MR. A. HOOGEWERF (*Nominated*): Does Mr. Lakshmana Pillai know that members of the depressed classes were admitted in the Popular Assembly and in this Council?

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MR. T. LAKSHMANA PILLAI (*Nominated*): Yes, I know. A solution arrived at in this way would avoid all the bickerings and all the bad blood that are incidental to any other line of action. The way of the Government would thus be much smoothened and matters would be settled better than otherwise and without the possibility of any hitch, friction, riot or other future trouble. Any other course is likely to be resented and, at the best, would still leave the embers of discontent and bitterness in the orthodox minds unextinguished.

I hope that the course I have suggested *viz.*, the forming of a strong deputation—

MR. A. HOOGEWERF (*Nominated*): Will he lead the deputation?

MR. T. LAKSHMANA PILLAI (*Nominated*): I can be one of the deputationists, if you please. But I cannot lead it. I trust that my proposal to discuss the question with the orthodox and to persuade them to change their angle of vision will not be viewed as a chimerical one. If it will serve no other purpose, it will serve this excellent purpose of demonstrating to the people that the Government do not tolerate any unnecessary or invidious distinction in the matter of primitive rights between one class and another of Her Highness's subjects and of knowing the present attitude of those who are likely to form the opposition, so that they may move forward on the lines of least resistance towards universal justice. If such a deputation fails in its mission, then it will be time enough to have a resolution of this kind passed in the Council, unless the Government comes earlier to the conclusion that the road under dispute is really a public road, in which case, the right asked for is easily allowed. I therefore reserve my opinion in this matter and propose to be neutral for the present.

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): സമത്വം അല്ലെങ്കിൽ സഞ്ചാരസ്വാതന്ത്ര്യം ഉണ്ടാക്കുന്നതിലേയ്ക്കാണ് ഈ വിഷയം കൊണ്ടുവന്നിട്ടുള്ളതു് എന്നു ഞാൻ വിചാരിക്കുന്നു. എല്ലാവക്കും സമത്വം ഉണ്ടായിരിക്കണം സഞ്ചാരസ്വാതന്ത്ര്യം ഉണ്ടായിരിക്കണം എന്നൊക്കെ ആണെങ്കിലും അവയുടെ സ്വഭാവംകൊണ്ടു് അതു ഒരു സാമുദായികം അയ വിഷയമാണെന്നു ഞാൻ വിചാരിക്കുന്നു. സഞ്ചാരസ്വാതന്ത്ര്യം എന്നു പറയുമ്പോൾ പബ്ലിക്കുറോഡിൽ എല്ലാവക്കും സഞ്ചരിക്കാനുള്ള സ്വാതന്ത്ര്യം എന്നു അർത്ഥമാണെങ്കിലും സമുദായ ആചാരങ്ങൾ ഭേദപ്പെടുത്താതെ ആ സ്വാതന്ത്ര്യം അനുവദിക്കുന്നതിനു സാധിക്കുന്നതല്ല. അതാണ് അതു സമുദായികവിഷയമാണെന്നു പറയുന്നതു. സമത്വം സംരക്ഷിക്കണമെന്നു പല മഹാന്മാരും പറയുന്നതു ഞാൻ കേട്ടിട്ടുണ്ടു്. എന്നാൽ സമത്വം എന്നു പറയുന്നതിനെ ഞാൻ ഇതുവരെ പരിശോധിച്ചു നോക്കിയിടത്തോളം അതു കടലാസ്സിൽമാത്രം കാണുന്നതല്ലാതെ ലോകത്തു ഒരി

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ടത്തും കാണുന്നില്ല. എന്നാൽ മനുഷ്യരുടെ ഇടയിലും മൃഗങ്ങളിലും ഓരോ സൃഷ്ടിയിലും എവിടെ നോക്കിയാലും അവക്ക് നാനാത്വവും ഉച്ചനീചത്വവുമാണ് കാണുന്നതു്. ആ സമത്വം വരുത്താൻ എളുപ്പത്തിൽ സാധിക്കുന്നതല്ലാ. ഒരാളെക്കൊണ്ടോ ഗവണ്മെൻറിനെക്കൊണ്ടോ ജനങ്ങളെക്കൊണ്ടോ ചട്ടംകൊണ്ടു നിർബന്ധിച്ചു സമത്വം സാധിപ്പിച്ചുകളയാമെന്നുള്ളതു് അസാധ്യമാണ്. സഞ്ചാരസ്വാതന്ത്ര്യം എന്നു പറയുന്നതിനു ഞാൻ വളരെ ഉദാഹരണം പറയാം. ഇന്നുതന്നെ ഇവിടെ പലരേയും ഈ കിഴക്കേ ഗേററിൽക്കൂടി വിട്ടിട്ടില്ല. അതു് ജനങ്ങളുടെ രക്ഷക്കുവേണ്ടി വച്ചതാണ്. അതുപോലെതന്നെ ഇവിടെ ഇന്നാക്ക് ഇന്ന സ്ഥലത്തിരിക്കണമെന്ന് നിർബ്ബന്ധമുണ്ടു്. ഈ വിധത്തിലുള്ളതെല്ലാം സ്വാതന്ത്ര്യത്തെ തടയുന്നു എന്നു പറഞ്ഞാൽ സാധിക്കുമോ. ഇതുപോലെ രാജാക്കന്മാരും പ്രഭുക്കന്മാരുംകൂടി വച്ചിട്ടുള്ള ഒരാചാരമാണ് ഇപ്പോൾ നടന്നുവരുന്നതു. ഇതുപോലെ ഹിന്ദു രാജ്യങ്ങളിലൊക്കെയും എന്നല്ല കേരളത്തിലും വിശേഷിച്ചു ഈ തിരുവിതാംകൂറിലും ഇങ്ങിനെ പല ആചാരങ്ങളുമുണ്ടു്. എന്നല്ലാതെ ഇന്നു കാണുന്ന നമ്പൂതിരിമാരൊ, ഇന്നത്തെ രാജാക്കന്മാരൊ സവർണ്ണ ഹിന്ദുക്കളിൽ പ്രധാനികളൊ മനസ്സിൽ ഉഷ്ണബുദ്ധിയോടുകൂടി കൊണ്ടുവന്നിട്ടുള്ളതല്ലാ. എന്നാൽ ഇങ്ങിനെ പറഞ്ഞാൽ നമ്മുടെ കൂട്ടുകാർ എന്നെ ശകാരിക്കുമായിരിക്കും. എന്നാലും അതിനെ ക്ഷമയോടെ കേട്ടുകൊണ്ടു ഇതിനെ എതുക്കാതെ ഇരിക്കാൻ എനിക്കു നിവൃത്തി ഇല്ലാ. ഇതു് കാൺഗ്രസിൽ നിന്നും വന്നിട്ടുള്ളതാണ്. സമത്വവും സഞ്ചാരസ്വാതന്ത്ര്യവും സഹോദരത്വവും ഒക്കെ ഉത്ഭവിപ്പിച്ച ആളായ മഹാത്മാഗാന്ധിക്കുടെ സമ്മതിച്ചിട്ടുള്ള ഒരാളാണ് രാമകൃഷ്ണ പരമഹംസർ. അദ്ദേഹത്തിന്റെ ശിഷ്യന്മാർ തന്റെ ഗുരുവിനോടു ഇൻഡ്യയിലുള്ള ജാതിവ്യത്യാസംകൊണ്ടും ശുദ്ധാശുദ്ധംകൊണ്ടും പലേ കുഴപ്പങ്ങൾ ഉണ്ടാകുന്നതുകൊണ്ടു അതു വേണ്ടെന്നുവച്ചാൽ എന്താ എന്നു ചോദിച്ചപ്പോൾ അദ്ദേഹം പറഞ്ഞ മറുപടി "വ്രണം ഉണ്ടാകുന്നതിനു മുമ്പു പൊറ പറിച്ചെടുത്താൽ രക്തം വരും അതിന്റെ ഉള്ളു ഉണങ്ങിയശേഷം എടുത്താൽ രക്തം വരികയില്ല" ഇങ്ങിനെ ആയിരുന്നു.

ഒരു ജാതിയിലെ ആചാരങ്ങളെ മാററിയിട്ട് സഞ്ചാരസ്വാതന്ത്ര്യവും സമത്വവും ഉണ്ടാക്കാൻ ഭാവിച്ചാൽ അതിൽ രക്തം ചൊരിച്ചിൽ ഉണ്ടാകും. ക്രമേണ ഉള്ളു ഉണങ്ങി പാകംവന്നതിനു ശേഷമായിരുന്നാൽ

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സങ്കടം ഉണ്ടാകയില്ല. കാലക്രമേണ കൊടുക്കാൻ ഉള്ളതു് കാലക്രമേണതന്നെ കൊടുക്കണം. ഒരു കുട്ടിക്കു മേൽമീശ വേണമെന്നു് ആഗ്രഹിച്ചാൽ അതിനുള്ള പ്രായമാകാതെ തരംവരുന്നതല്ലല്ലൊ. ക്രമേണ വന്നുചേരുന്നതിനുള്ള പൂർണ്ണസ്വാതന്ത്ര്യം ഇപ്പോഴെ കൊടുത്താൽ അതു നിമിത്തം എന്തെല്ലാം ഉണ്ടാകാൻ പോകുന്നു എന്നുള്ളതു് ഇപ്പോൾ തീരുമാനിക്കാൻ നിവൃത്തി ഇല്ലാ. ഒടുവിൽ ഗവണ്മെൻറുതന്നെ അതിനെക്കുടെ രക്ഷിക്കേണ്ടതായിട്ടും വന്നുചേരും. എന്നാൽ ഈഴവസമുദായത്തിലുള്ള എല്ലാവരും സഞ്ചാരസ്വാതന്ത്ര്യത്തെ സഹായിക്കുന്നു എന്നാണ് വിചാരിക്കുന്നതു്. മൂർക്കോത്തു കുമാരൻറെ ചില ലേഖനങ്ങൾ പത്രത്തിൽ വായിക്കാൻ ഇടയായി. അതിൽ വയ്യത്തു സഞ്ചാരസ്വാതന്ത്ര്യം ഉണ്ടായതുകൊണ്ടു് ഈഴവരുടെ ഇപ്പോഴത്തെ അവസ്ഥയ്ക്കു് വ്യത്യാസം വരുകയോ തീണ്ടൽ മാറുകയൊ പൊതുവേ സ്വാതന്ത്ര്യത്തോടുകൂടിയ വിശ്വാസ നില ഭിന്നസമുദായത്തിൻറെ ശ്രദ്ധയിൽ വരുകയോ ചെയ്യുന്നതല്ല എന്നു പറഞ്ഞിരിക്കുന്നു. ഇങ്ങനെ ഈഴവന്മാരുടെ ഇടയിൽതന്നെ അഭിപ്രായ വ്യത്യാസക്കാർ ഉണ്ടു്. ആചാരം ആര് വച്ചതു എന്നുചോദിച്ചാൽ ആരും വച്ചതല്ല എന്നേ പറയാൻ നിവൃത്തിയുള്ളൂ. ആചാരങ്ങളെ മാറുന്നതിനും മറും ഈ മാതിരിഉള്ള കൌൺസിലുകളെ ഏർപ്പെടുത്തിക്കാൻ പാടില്ലാത്തതാണു്. പണ്ടൊക്കെ ഒരു കാര്യം തീരുമാനിക്കയാണെങ്കിൽ അതു് രാജാക്കന്മാർ വിചാരിച്ചു് പിന്നെ അവരുടെ മതാധികൃരികളും മറ്റു വളരെ മഹാന്മാരും കൂടി ആലോചിച്ചു് ഒരു തീരുമാനം ഉണ്ടാക്കുകയാണു പതിവു്. അതുപോലെ ഈ കേരളത്തിലും ഉണ്ടായിരിക്കുന്ന അനാചാരത്തെ എല്ലാരാജാക്കന്മാരും മതക്കാരും കൂടിച്ചേർന്നു യോഗംകൂടി ഇതിനെന്തെങ്കിലും ഒരു തീരുമാനം ചെയ്യുന്ന കാലത്തോളം ഈ ആചാരത്തെ ഈ നിലയിൽ കരുതാനേ നിവൃത്തിയുള്ളൂ. ഇതൊന്നും അത്രപെട്ടന്നു തീരുമാനിക്കാൻ സാധ്യമല്ല. ഇപ്പോൾ കൌൺസിലിൻറെ വിഷയമായ സമയം അവകാശത്തെ സാമുദായികവിഷയത്തിൽ ഉൾപ്പെടുത്തി വോട്ടു ചെയ്യാൻ ഹിന്ദുമതത്തിൽ പെട്ടവർ വിചാരിക്കുന്നു. എന്നാൽ ഹിന്ദുമതാചാരത്തെമാറുന്ന വിഷയത്തിൽ അതു് സ്വീകരിച്ചിട്ടില്ലാത്തവരുടെ വോട്ടുകൊണ്ടു് എന്താണു് പ്രയോജനം. മതവിഷയത്തിൽ ബ്രിട്ടീഷ് ഗവർണ്മെൻറ് പ്രവേശിക്കയില്ലെന്നു വച്ചിട്ടുണ്ടെങ്കിലും ഈയിട പ്രവേശിച്ചു കാണുന്നു. ഏതെങ്കിലും പള്ളിയിലെ സ്വത്തു് ഗവർണ്മെൻറു വകയായി ഏറ്റുകയോ ആ പള്ളി മുതൽ ഏതെങ്കിലും തരത്തിൽ വിനിയോഗി

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[Mr. Trivikraman Vasudevar.]

ക്കയോ ഉണ്ടായിട്ടില്ല. അങ്ങനെ ഒരു സംഗതി ബ്രിട്ടീഷ് ഗവർണ്മെൻറ് ചെയ്തതായും ഞാൻ ഇതു വരെ കേട്ടിട്ടില്ല. മഹമ്മദീയരുടെ പള്ളികളിലുണ്ടാകുന്ന പൊതുമുതലിനെ ഗവർണ്മെൻറുടുക്കയോ ഭരണത്തിൽ കൈകടത്തുകയോ ചെയ്തിട്ടില്ല. ഹിന്ദുമതത്തിൻറ സ്വത്തിൽ അപ്രകാരം ചെയ്തിട്ടുണ്ടന്നു ഗവർണ്മെൻറിനു ശ്രദ്ധിക്കാനിടയായിട്ടുണ്ട്. ഇപ്പോൾ മദ്രാസിൽ ഒരു ഹിന്ദുസ്ഥാപനം റസലേഷൻ നടപ്പിൽ വന്നിട്ടുണ്ട്. ഇപ്പോൾ മതാദ്ധ്യക്ഷന്മാരായി സഞ്ചരിക്കുന്ന മഹാന്മാരാണ് അതു തീരുമാനിച്ചതു്. ഇന്നത്തെ ഹിന്ദുക്കൾക്കു അതു സമ്മതവും സന്തോഷവുമല്ല. അങ്ങിനെ ജനങ്ങളുടെ ആചാരസംബന്ധമായ തീരുമാനം കല്പിക്കുന്നതിനെ ഗവണ്മെൻറ് തടയണം. അതുകൌൺസിലിൽ എടുത്താൽ അതിൽ മേജാർട്ടി അല്ലെങ്കിൽ ഭൂരിപക്ഷത്തിനുള്ള സ്ഥാനം അല്ലാതെ വേറെയാതൊന്നും ആലോചിക്കാനില്ലാ. മൈനർ സമുദായക്കാക്ക് മെജാർട്ടി അല്ലെങ്കിൽ ഭൂരിപക്ഷം കിട്ടുമോ എന്നുള്ള കാര്യം ഇങ്ങനെയുള്ള പൊതു സ്ഥാപനങ്ങളിൽ സാധിക്കുന്നതല്ലാ.

മതസംബന്ധമായ കാര്യങ്ങൾ തീരുമാനിക്കേണ്ടതു്. പൊതുവിൽ ഉള്ള അഭിപ്രായം അനുസരിച്ചോ പ്രത്യേകം നിശ്ചയിച്ചിട്ടുള്ള ഒരു സമിതി കൊണ്ടോ അല്ല. മതകാര്യത്തെ തീച്ചപ്പെടുത്താനായിട്ട് മഹാരാജാക്കന്മാർ അവരുടെ അധീനത്തിൽ ഉള്ള നേതാക്കന്മാരേ വരുത്തി ആലോചിച്ചു തീരുമാനം ചെയ്യുയാണ് നല്ലതു. അല്ലാതെ കൌൺസിലിൽ മെജാർട്ടി സ്ഥാനം വച്ചിങ്ങിനെ കാര്യം തീരുമാനിക്കുന്നതു് വിഷമമാണ്. അതുകൊണ്ടു ഒരു പ്രമേയത്തെ എതുക്കാതിരിക്കാൻ തരമില്ലെന്നാണ് എൻറെ അഭിപ്രായം.

എന്നാൽ ഇതിൽ എതുവിഷമം ഉണ്ടെന്നുള്ളതു് ഒരു ഇടക്കുണ്ടായ ഒരു പ്രവൃത്തി കൊണ്ടു് ദൃഷ്ടാന്തപ്പെടുത്താം. പാലക്കാട്ടു് ഒരു സ്ഥലത്തു് ഗ്രാമവീഥിയിൽ പ്രവേശിക്കണമെന്ന് ചിലർക്ക് നിർബന്ധം തോന്നി അതിൽ ഒരു കേസുണ്ടായി ബ്രിട്ടീഷ് ഗവർണ്മെൻറിൻെറ ഒരു തീരുമാനവും ഉണ്ടായിട്ടുണ്ടു്. അതിൽ സമാധാനത്തിനു വഴി ഉണ്ടു്. സിവിൽ കോടതിയിൽ പോയിട്ടു് അവരുടെ അവകാശം സ്ഥാപിക്കാമെന്നു പറയുന്ന ഒരു ന്യായമുണ്ടു്. അതിൽ പ്രതിവർഗ്ഗത്തിൽ ചേർന്ന് (ഒരു കേസുണ്ടായാൽ വാദിയും പ്രതിയും കാണുമെല്ലൊ) അവരുടെ തെളിവിനെ കോടതിക്ക് ബോധ്യപ്പെടുത്തി അവർ ശക്തിയായി വാ

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ളം നടത്തി തീരുമാനിക്കാൻ സൗകര്യം കിട്ടും. എന്നാൽ ഇവിടെ വെറും ഭൂരിപക്ഷമാണ്. പ്രസംഗചാതുര്യം പോലെ അതു് കിട്ടുന്നതാണ്. അതുകൊണ്ടു് ഒരു സിവിൾ കോടതിക്കു് ആയി വിട്ടു കൊടുക്കണമെന്നുള്ള ബ്രിട്ടീഷ് ഗവർണ്മെൻറിൻെറ തീരുമാനത്തെ അനുകരിക്കയൊ അല്ലെങ്കിൽ തല്ക്കാലം രാജിആയിട്ടു് തീക്കുകയൊ അല്ലങ്കിൽ കായ്യം എന്താണെന്നു് വിചാരണ കഴിച്ചു് ഗവർണ്മെൻറും ആയിട്ടു അനുകൂലിക്കയൊ ചെയ്യണം. അല്ലാതെ കൌൺസിൽ തീരുമാനത്തിനു് വിട്ടുകൊടുത്താൽ ഏതു് കൂട്ടക്കാണു് സങ്കടം വന്നു ചേരുന്നതു എന്നു് അറിവാൻ പാടില്ലാ.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): മൂന്നുരാജ്യത്തിലെമഹാന്മാരും ചേർന്നു ഉണ്ടാകുന്ന ഒരു വാദസമിതിയിൽ ഒരംഗത്വക്കു് അനുകൂലമായി ഭൂരിപക്ഷം കിട്ടുന്നു എങ്കിൽ അതു സമ്മതിക്കുമോ?

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): അതു വിധത്തിലുള്ള സമതി അല്ലാ, വാദത്തിനു മൂന്നു രാജ്യത്തിലെ രാജാക്കന്മാരും അവരുടെ അധീനത്തിലുള്ള മതാധ്യക്ഷനും മഹാത്മാക്കളും കൂടിചേർന്നു ഒരു സമതി എന്നാണു് ഞാൻ പറഞ്ഞതു്.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, we have listened to so many speeches to-day of a most convincing character but of divergent views, that some of us feel great difficulty in coming to a proper conclusion. The cases for both sides have been argued with a mastery of details and ability of an uncommon kind. The resolution is a very fortunate one because the Hindus tackle the question with the idea of Hinduism, with the solidarity of their self-interest—the desire to prevent Hindus from becoming Christians. The Christian members have dealt with the subject in a spirit of Christian charity and unselfishness, and, as Mr. Hoogewerf would put it, they have argued it on the basis of "the fatherhood of God and the brotherhood of man;" so that whatever may be the standpoint of the several people in accepting the resolution, the forces which may be ordinarily divergent have become concurrent. The matter that is now before the House is certainly a very serious and important one and the fate of millions and the prosperity of the country to a very great extent depend on the decision that this Council may arrive at. I do not venture to recapitulate the various arguments. The matter has been sufficiently argued before the public and various views have found expression in the public press and public platforms. There are some people who are on the margin. They are under the impression that the rights of minorities should be respected, because some communities which are numerically strong have got a militant desire to reform the state of

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things in their own way. Simply because those communities unite among themselves, and build up a common platform, the rights or privileges, of others however unreasonable, according to the standpoint of the reformers cannot be ignored. There are at the same time, in spite of these arguments, certain facts which it is impossible to get over. One such fact is that there are temples and temples; and some of these classes which are not allowed to go through the Vaikam roads are allowed to approach and pass through other roads similarly situated. I can remember one instance, Sir, inside the Fort, near the Padmatirttam, on the north-eastern side of which there is a Siva temple. It is abutting on the road and yet bandies are driven by people who belong to those communities which are not allowed to approach the temple. Another fact is that Christians and Mahomedans are allowed to pass through the Vaikam roads. Whatever be the cause, if a man belonging to one of these depressed classes puts on a new cloak of religion, whether Christianity or Mahomedanism, that metamorphosis enables him to use these preserves. That is really a most unreasonable position.

It has been suggested, Sir, that religion is a very delicate matter. It is so. I am one of those who think so. It has been said, particularly by my friend Mr. Marrasseri Potti, that when social and religious questions have to be decided, the Sovereigns and Matadhipaties must sit together in conclave and that the State should give effect to their decision. Nothing like that is possible at the present day; and the state of Matadhipatis themselves has changed, and I fear some have changed very much for the worse. So, the generality of people do not repose sufficient confidence in them. I have seen some boys who go to the English schools and sit there till 4 o'clock, come back, bathe, and perform Santi in the temples. The obstacle to my mind is this, that whatever be the excellence of our religion and the wisdom of the arrangement, because the Travancore Government has been indifferent in this matter, because the Government has not been able to provide means by which necessary changes in social and religious questions may be effected, because of that indifference, call it *laissez faire* or neutrality or non-intervention, whatever it is, it is because of that circumstance that all these difficulties have arisen.

There is one other great difficulty for which the Government themselves are responsible. A hundred years ago, the Government assumed the management of these Devaswoms. At that time the people had no articulate voice. It was only the Nayars and Brahmins and certain other caste-Hindus that had the privilege to enter the temples for the purposes of worship. A large majority of Hindus had nothing to do with them and, as I said already, they had no articulate voice. So that at the time when Colonel Munro made the proposal, the Travancore Government decided upon assuming the temples for efficient management. There was perhaps the very best of

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motives especially at that time when it was considered to be one of the primary duties of all Governments to protect the religious institutions of all communities. There were various regulations of the Madras Government and even an Act of the Government of India to the effect that it is one of the primary functions of Government to protect religious institutions. I may refer to Regulation VII of 1817, Ordinance of 1829, and a number of other enactments. I am referring to them to show that even the Government of Madras, a Christian Government, thought they must do everything for the proper maintenance and upkeep of Hindu temples. Supported by these examples and in the light of their own traditions, the Travancore Government assumed the management of temples. But, in Travancore later on a difficulty arose. The Sovereign who is a Hindu and the Hindu Government of the State, had necessarily to perform their duties standing on an eminence of neutrality so that to them, the Christian and the Mahomedan and the Hindu, all were alike; and the other communities were raising their voice against the supposed fact that the Government were spending their money on the Hindu temples. Now, Sir, I maintain that the Government and their officers have been, to a very great extent, responsible for the situation that has now been created. One Peishkar goes and puts up a board at Vaikam, a board which was not there before; and the obnoxious term *tindal jati* is introduced; and a second gentleman who held the same office goes there removes the board and puts it in another place, giving hopes to these communities. There is nothing, Sir, that succeeds like success; and in addition to these, an order was passed by the Government declaring that they are the owners of these temples although one of my friends in this Council wrote an elaborate and valuable minute to prove a different case. I have perused it very carefully. Although my friend tried to show that the position of Government was that of a trustee and although successive Dewans have acknowledged the position of Government as being that of a mere trustee, the Government said that they were managing the Devaswoms in their dominant political capacity. Now, Sir, it is because of all this that the people take advantage of the declaration of Government, and it is therefore that certain classes have come forward to say that Government temples stand on a common footing to all Hindus alike, that they are open to all communities and that the approach roads cannot receive any better treatment than the ordinary public roads. In making this observation, I have no ulterior motive; it is only to say that difficulties have been created by the Government during the last hundred years. But the matter, however has now assumed a definite and serious shape, on account of the *Satyagraha*.

I may at once say, Sir, that I do not sympathise with the *Satyagraha* movement. I have declared my considered opinion more than once that so far as our State is concerned, at any rate, *Satyagraha* is not the best method. Several Congressmen came in swarms to our peaceful country and have disturbed its tranquility. They have been cowardly in their acts,

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because, while they have got similar conditions in their own country, they came to this State and created mischief. I do not sympathise with them and I am one of those who should like Government to adopt drastic steps against them. They indulged in dangerous pranks against the Travancoreans who live under the wise sway of His Highness the Maha Raja. Whatever be the philosophy of it, whatever be the enlightenment of passive resistance, I, for one, am not in favour of *Satyagraha*. But, because *Satyagraha* is an evil, it does not mean that people who have not offered *Satyagraha* should be made responsible for the faults of the emotional few. If we travel in a train and there are a dozen men who are criminals—I do not use the word 'criminals' so that it may apply to the *Satgagrahis*—because we have to travel in the same train, if all of us should be arrested for the offence committed by those few, it would be wrong. So that we have to steer clear of the rocks and shoals of Congress politics; and we may disapprove of them. But the present question is a simple one. There are these roads. There is the fact that Christians and Mahomedans are allowed to use them. A Hindu who is not allowed to use them is permitted to do so if he puts on a new cloak of religion. Therefore, there is nothing unjust in the demand that these roads should be thrown open to all classes. I am only concerned with another aspect of the question. In spite of these ideas which I have expressed in favour of the spirit of the resolution, I am one of those who think that religion stands on a distinct and sacred pedestal. If there is any religious observance, call it superstitious, unreasonable—some people may call the rites of the Hindu religion superstitious—call it wickedness even, still religion must always stand on a safe pedestal. Religious sentiments have to be always respected. It was the gracious Queen Victoria who in her Proclamation assured all the people of India that their religions will be safe. A religion may be followed by two crores of people or by twenty or two persons, and yet the Government are bound to protect them. Another thing is that religious observances, however superstitious they may be to the eyes of other religionists, are rooted in people's minds. Now, the only difficulty, so far as I am concerned, to accept this resolution in its entirety is this. In Vaikam—I have gone there some months ago and I have gathered certain facts after this question cropped up—it is the Santikars, the priests and others who are employed in the temple who are living on the sides of these roads. They have to go to the temple very often from their houses and they cannot afford to bathe many times. Now call it a very inconvenient custom, call it even an absurd custom, the simple question that presents itself to my mind is that it is not easy of solution. Because some enlightened persons, because a majority of ourselves accept them even if there is an overwhelming majority, are we justified in giving a rude shock to religious sentiments? That is the question.

MR. N. RAMAKRISHNA PILLAI (*Vaikam cum Ettumanur*): Is walking by the road a religious exercise?

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MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : Walking by the road may be sometimes a religious exercise, for example when it is a pilgrimage. (*Laughter*). But I am not talking of such religious exercises. Using the road is a perfectly reasonable thing. But there are some local customs. There is the idea of pollution. These roads are so very narrow that people who live on either side of the road who are not accustomed to this kind of reform do raise some objection; but that objection cannot make the position of the other side untenable. Because there are occasions in the history of our race when Governments, representing the bulk of the people, have got to take a definite stand. There is considerable force in the observation made by some of my friends that, in spite of the touch pollution and the distance pollution, which has been observed for centuries, when the Popular Assembly was created, when the Legislative Council was created by the Government, they started these depressed classes on the road to progress even at the cost of some violence to the sentiments of caste-Hindus, and they were prepared to invite them to the Assembly and to the Council and seat them side by side with the most orthodox Nambudiris. Therefore the attitude of the Government has been clear, and nobody has felt that because of all that the religious susceptibilities were wounded. We know that, twenty five years ago, a certain Ezhava addressed the Travancore Government on the subject of appointments to be given to Ezhavas—I believe it was Dewan Sankarasubba Aiyar—he was a wise statesman; but he had to reckon with the forces that surrounded him, so he had to say out of deference to the feelings and sentiments of the community, that certain classes of people could not get certain places in the Government service. But what do we find now? There are people of these castes in the highest positions and the Brahmins and Nayars and other caste-Hindus are prepared to be their clerks and peons and perhaps servants. And there is also another instance here, that every man who comes and sits along with others, who are supposed to belong to members of depressed classes, does not bathe to cast off pollution either before he goes to take his tiffin or even when he goes to the temple for worship. I do not agree with my friend Mr. K. Paramesvaran Pillai in the view that these religious formalities are nothing. Our temples are different from those of northern India and I know of cases where a gentleman who tries to talk scoffingly at the religious superstitions will thus be victimised so that when any near relation is taken to the temple that one may dislike and that will be allowed when we are living in a kind of society like that. Therefore, I am unable to agree with my friend Mr. Changanacherry Paramesvaran Pillai. There are superstitious people and the people who are living round Vaikam temple may be superstitious. Now the simple question that arises for your kind decision is this. So long as we have to reckon with the forces of inaction, decay, ignorance, superstition, call it what you will, so long as there is a custom in their favour, seeing that their religious susceptibilities cannot be wounded in the name of politics or social reform, are we not to give them some opportunity of establishing their case before we give a rude shock to

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their ideas. I am using that argument just to convince the House that some time, say two or three months, may be given to the party concerned to go to a court of law for establishing their right. It is the Civil Court which has got to dispose of this question and we shall not be justified if we arrogate to ourselves the function of deciding cases of actual facts alleged on one side and denied on the other. On questions of fact, I think this Council will be stultifying itself if for arguments or premises in arguments a position is taken up that we are competent to sit in judgment over every question relating to every road, whether it is in Vaikam or in any other place. Now it has become a sensational matter and the roads at Vaikam may be said to stand on a singular footing. So far as the jurisdiction of this Council is concerned, I do not see any difference between the Vaikam roads and those in far-off Todupuzha. I would therefore suggest that, while we accept the resolution substantially, and so far as the wording is concerned, I do not think there is much to change in it. I would suggest that some three months time may be allowed, so that if we pass the resolution those who think that they have got a right may establish it in a court of law. Such people may proceed to a Court of Law, institute a plaint, and if they want an extraordinary remedy, the Civil Procedure Code is not barren of such remedies, There is in the present case an order of a criminal court and an order of a court whether cliver or criminal will have to be respected by my lawyer friends. With all the non-co-operation, with all the Satyagraha, with all their distrust in the courts which are established and maintained by the Travancore Government, my friends here—I mean the lawyers who are in favour of Satyagraha methods—are practising before those very same courts. Therefore, I refuse to believe that there is no confidence reposed in these courts by Satyagrahis. I say there is the order. This Council has to maintain the reputation of our courts. If we daraw up those cases from Magistrate's files, if we arrogate to ourselves the curious function of deciding them, I think we shall be making ourselves open to the abuse that we have not been discharging our duty properly. Therefore while this Council should lay down the principle that every road which is being maintained by public funds should be thrown open to all castes of His Highness the Maha Raja's subjects, I am for this qualifiaation being made that in deference to the feelings and sentiments and the historical traditions of the various communities who are said to be in possession of the so-called privileges, they may be allowed an opportunity to file a suit in a competent court and establish, their right in due course of law. Something has been said in regard to 5 T. L. R., 10 T. L. R., and 19 T. L. R. I am not going to refer to them in any detail. But the argument advanced by Mr. K. Parameswaran Pillai is another argument to show that the courts can be confided with the cases. It was said that the ruling was about 35 or 40 years ago. At that time, conditions were different and if a case were to arise under the altered conditions as at present, the decision should be otherwise. At that time it was not known whether the Christians or the Mahomedans were allowed to go through the very same roads.

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Now, education and enlightenment have spread far and wide and there are courts which should be able to meet this question in a broad spirit. And there are also gentlemen who espouse these methods in the legal profession and there are Vakils who are prepared to undertake the conduct of these cases. When there are all these units, when there is public opinion, when the caste-Hindus themselves are in favour of the change, when we find demonstrations such as the Jatha have made people reflect upon this question, when, in addition to all this, this Council is sitting here and watching the work of the judiciary and there is High Court in which there are eminent judges prepared to correct the errors of the District Judges, I am of opinion, Sir, that the final deciding authority in these questions of fact, call it religious or social or political, should be the law courts. I therefore request the House to decide this question of policy to be accepted on all hands, this excellent, reasonable and patriotic resolution that all public roads maintained by the public funds, even the roads at Vaikam and roads similarly situated, may be thrown open after imposing a qualification that, within a certain time, those who feel aggrieved by the decision may have the opportunity of moving a court and asking for a decision which may be respected by all.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know the decision. Mr. Velu Pillai wants the House to arrive at?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The resolution will show which way the wind blows and the Judges have got a right of changing the law by judicial interpretation. Most of the legislation in civilised countries are affected by judicial decisions. Here is an articulate public opinion and here are facts and figures. Therefore I think a Judicial tribunal is the best authority on facts and it will be quite proper if we should lay down a principle. We should tell them by a resolution passed in the Council, tell the Court and the public that this is our view and that matters have advanced so far in the civilised world that it is impossible to turn the Ganges back and to make all the so-called privileges of the higher castes protected by the Government for all time.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): Supposing we pass this resolution as it is without any further modification, will it take away the right of aggrieved parties to take action?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Yes, practically so. There is this difficulty. It may be that perhaps Government may accept this resolution; the House may accept or reject it; and all this may be done within 24 hours. Therefore why should we give the Government an opportunity of creating dissatisfaction. Sir, my heart is as warm as that of any other man for the depressed classes but all the same we have to place clear issues before us and decide the question of fact, whether it is a private road or a public road. That is the reservation I have to make.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Who is the party to sue and who are the parties to be sued?

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[Mr. P. K. Narayana Pillai.]

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Those parties who think that they have got a good case may engage vakils, perhaps my friend himself. I am not prepared to give anybody free legal opinion.

Mr. Paramesvaran Pillai, in the course of a very lucid speech tried to show that the observations in V T. L. R. were *obiter dicta* and X T. L. R. and XIX T. L. R. did not take us further than that. Now the classes that are complaining against the present condition will get relief. This fact supports the view that I have taken. Therefore there is nothing against these communities which will prevent a court from giving a decree.

And there is the further fact that the roads are maintained by the P. W. D. Therefore nobody is going to be prejudiced. The question put by my friend enables me to say that with regard to the binding nature of V. T. L. R. the classes who want the road will be greatly benefited. I have made these observations, Sir, because I thought that rather than give a rude shock all at once, the responsibility may be taken by a court of justice maintained and conducted by the Travancore Government. The decision of a court will create less dissatisfaction than any other means of reform.

MR. N. RAMAKRISHNA PILLAI (*Vaikam* cum *Ettumanur*): What was the result of the Myladi case?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I am not concerned with the result of that case. There are several decisions on the subject. So far as I am aware, the decision of the Myladi case has not shown that my view is wrong. My friend Mr. Ramakrishna Pillai himself knows that our High Court have been quite liberal in putting constructions on things which are in keeping with the enlightened policy of the law. Take, for example, the sections of the Nayar Regulation. They have laid down the right of the heirs of the Makkathayam properties. The state of public feeling may be respected by judicial decisions. If in that comparatively unimportant matter, if in that they can take that view when there is so much material of overwhelming force advanced by the arguments about justice, legal, political and other forms of justice, the cause of rights in Travancore will certainly come to the rescue. In that case nobody will be gladder than I when these communities who are kept under the tyranny of a bad custom are allowed to use the roads. All that I am pleading is just to say, "let us not rudely shock the feelings of others and let us not pain them simply because they may be in a minority, and in addition to that they have got the unpardonable sin of being conservative in their feelings and sentiments."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I would like to know how many parties are there in the field according to him already?

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MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Those who want the roads to be kept open and those who object to it.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is the Government of Travancore a party to it?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The Government of Travancore will necessarily have to be a party.

MR. A. HOOGEWERF (*Nominated*): If such a resolution is passed as proposed by my friend, would he—

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I have not proposed any resolution.

MR. A. HOOGEWERF (*Nominated*): He said two or three months must be given to have the question settled through a court of law.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I do not propose to satisfy my friend; for a knowledge of details of law will be necessary before one can understand (*Laughter*). I do not propose to deliver lectures on such questions in the Council. But I may say, for the satisfaction of my friend Mr. Hoogewerf, that the course which I propose is in no way unreasonable.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Is it his opinion that this House may accept this resolution?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): In case we are to accept this resolution, an opportunity should be given to those who are aggrieved, so that they might seek redress before the courts.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I want to know what his opinion is.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I would even accept that if this Council passes this resolution it may be put into operation. The acceptance of the resolution before the Council depends upon the decision of this and kindred questions by the House. (*Laughter.*)

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I want to know what in my friend's opinion should be the decision of the House.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The opinion of this House should be that, while pushing on the cause of reform in civic and political matters, they ought to accept the resolution in such a form that those people who in a minority and those who are conservative enough to dislike these changes may have no room for complaint. I am only making a suggestion and my friend will see what my firm opinion is when I vote on the motion. I have advanced one point of view. But there are various other people who might be able to explain the difficulties that are present to my mind. If I give him an assurance now as to the particular way in which I am going to vote, I shall perhaps go wrong. Because some light may hereafter come to me. (*Laughter.*) This resolution may be accepted but it should not be put into operation,

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[President.]

even if the Government accepts it, until after the expiry of three months. If the President will give me permission, I have no objection to move an amendment.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): Will the suit be decided in three months?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): If a non-lawyer had put me the question I should have had no surprise. But if a suit is filed, there is provision for interim remedies being applied. As for that matter, there are rules in the Civil Procedure Code. There are what are called injunctions and prohibitory orders.

MR. A. GOVINDA MENON (*Alangd* cum *Parur*): Does not such a course delay the settlement of the grievance?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): It may be delayed for a few months; but the delay is not *essential*. I am certainly for giving an opportunity to people for establishing their rights. I do not think this is a case which would be delayed, because the whole Travancore is looking on the decision, and inordinate delay will perhaps cost the Judge his prospects and if delay is persevered in it may affect his appointment.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I rise to a point of order. Is my friend in order in suggesting that it will cause the Judge the loss of his appointment?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, appointment has got more than one meaning. I use appointments to mean hopes and expectations. I think I am perfectly in order. If my friend is sure that appointment always means post of judgeship, then he may perhaps be right and I may be wrong.

PRESIDENT: It is a matter of opinion.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): I still rise to a point of order. It is only a suggestion that he threw for the consideration of the House after the resolution is ultimately accepted.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Yes.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): My point is whether this House will have the jurisdiction to decide.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I never said that there is no jurisdiction. We can consider every question except those which are reserved.

PRESIDENT: We will now rise and meet at 11-30 A. M. to-morrow.

The Council adjourned at 5-25 P. M.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

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